

I reserve the balance of my time.

Mr. LOBIONDO. Madam Speaker, I yield myself such time as I may consume.

I urge all Members to support this very important measure. I want to particularly thank Mr. OBERSTAR, Mr. MICA, and GENE TAYLOR for their work on this measure. Again, I urge everyone to support the legislation.

Madam Speaker, I rise today in strong support of S. 3372. Effective 2 days from now, commercial fishermen, charter boat operators and owners of other commercial vessels less than 79 feet will have to apply for and receive individual permits from the EPA to discharge from their vessels such things as deck wash, bilge water, and the condensation from air conditioning units. Vessels that operate without these permits could be subject to citizen lawsuits and daily fines that exceed \$32,000 per violation. To make matters worse, the EPA has informed Congress that they do not have the resources to process the hundreds of thousands of permits that would be required.

This bill simply extends the current moratorium a few more years to ensure the EPA has time to analyze the results of the study they conducted on incidental discharges, review public comments, and develop proper permitting regulations.

Although I am very pleased the House will be sending this bill to the President today, I still look forward to working with Chairman OBERSTAR on a broader bill to establish a fair and effective regime to regulate incidental discharges, as well as ballast water. As the Chairman knows, the current situation where we have 2 Federal agencies plus 28 different states enforcing 30 different standards on ballast water is crippling our maritime industry. I know the Chairman is committed to working through those issues and I hope we will have a bill on the floor soon.

Finally, I want to thank Chairman OBERSTAR for his leadership in moving this bill forward today, as well as Ranking Member MICA for his strong support and assistance. I also want to thank Senators MURKOWSKI and BOXER for their tremendous efforts. Finally, I want to thank the staff on both sides for their outstanding work.

I yield back the balance of my time.

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I yield such time as he may consume to the chairman of the full committee, the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. I want to compliment the gentlewoman on her splendid work on this legislation and her leadership of the subcommittee, the gentleman from New Jersey for his consistent and persistent advocacy. And if we pass this bill tonight, it will go directly to the President.

Madam Speaker, I rise in strong support of S. 3372, a bill that extends a provision prohibiting the Environmental Protection Agency (EPA) and States from requiring permits under Section 402 of the Clean Water Act for certain discharges that are incidental to the normal operation of commercial vessels less than 79 feet in length and all fishing vessels. This Chamber has now twice passed the language contained in S. 3372.

I thank the gentleman from New Jersey (Mr. LOBIONDO) for his continued work on this

issue. As I have said many times to my colleague, we will get this legislation signed into law.

This legislation extends a narrowly tailored provision enacted by Congress in 2008 to establish a moratorium on permit requirements under the Clean Water Act for certain discharges from fishing vessels and those commercial vessels less than 79 feet in length. This legislation ensures that EPA has sufficient time to consider the implications of discharges incidental to the normal operation of a vessel, while preserving the goals of the Clean Water Act to restore and maintain the chemical, physical, and biological integrity of the Nation's waters.

When the moratorium was established two years ago, EPA was directed to conduct a study on discharges incidental to the normal operation of a vessel. The purpose of this study was to provide the Agency and Congress with additional information on the nature, types, volumes, and composition of vessel discharges, and the potential impact of these discharges on human health, welfare, and the environment.

EPA completed this study earlier this year and determined that discharges from these smaller vessels are not benign. Appropriately, EPA plans on bringing these vessels within the scope of the National Pollutant Discharge Elimination System (NPDES) program. Currently, however, EPA does not have the framework in place or the resources to expand NPDES coverage to these smaller vessels.

S. 3372 extends the current moratorium to December 18, 2013. This extension will allow EPA time to implement the appropriate Clean Water Act mechanisms for controlling, minimizing, and properly addressing these types of vessel discharges. It will also allow the Agency to plan for the inclusion of these smaller vessels when the Agency renews its Vessel General Permits program.

The language contained in S. 3372 was included in H.R. 3619, the "Coast Guard Authorization Act of 2010", which passed the House on November 2, 2009. In addition, last week, the House passed H.R. 5301, introduced by the gentleman from New Jersey (Mr. LOBIONDO), which included this provision.

I strongly urge my colleagues to join me in support of S. 3372.

Ms. EDDIE BERNICE JOHNSON of Texas. I urge support for the bill. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) that the House suspend the rules and pass the bill, S. 3372.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 2350

REAL ESTATE JOBS AND INVESTMENT ACT OF 2010

Mr. CROWLEY. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 5901) to amend the Internal Revenue Code of 1986 to exempt certain

stock of real estate investment trusts from the tax on foreign investment in United States real property interests, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5901

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Real Estate Jobs and Investment Act of 2010".

SEC. 2. EXCEPTION FROM FIRPTA FOR CERTAIN STOCK OF REAL ESTATE INVESTMENT TRUSTS.

(a) IN GENERAL.—Paragraph (3) of section 897(c) of the Internal Revenue Code of 1986 is amended—

(1) by striking all that precedes "If any class" and inserting the following:

"(3) EXCEPTIONS FOR CERTAIN STOCK DISPOSITIONS.—

"(A) EXCEPTION FOR STOCK REGULARLY TRADED ON ESTABLISHED SECURITIES MARKETS.—",

(2) by adding at the end of subparagraph (A) (as added by paragraph (1)) the following: "In the case of any class of stock of a real estate investment trust, the preceding sentence shall be applied by substituting '10 percent' for '5 percent'.", and

(3) by adding at the end the following new subparagraph:

"(B) EXCEPTION FOR CERTAIN STOCK IN REAL ESTATE INVESTMENT TRUSTS.—

"(i) IN GENERAL.—Stock of a real estate investment trust held by a qualified shareholder shall not be treated as a United States real property interest except to the extent that an investor in the qualified shareholder holds (directly or indirectly through the qualified shareholder) more than 10 percent of the stock of such real estate investment trust.

"(ii) QUALIFIED SHAREHOLDER.—For purposes of this subparagraph, the term 'qualified shareholder' means a shareholder—

"(I) which would be eligible for a reduced rate of withholding under any income tax treaty of the United States with respect to ordinary dividends paid by the real estate investment trust even if such shareholder holds more than 10 percent of the stock of such real estate investment trust, and

"(II) whose principal class of interests is listed and regularly traded on one or more recognized stock exchanges (as defined in the relevant income tax treaty referred to in subclause (I))."

(b) DISTRIBUTIONS OF REAL ESTATE INVESTMENT TRUSTS.—Paragraph (1) of section 897(h) of such Code is amended—

(1) by inserting "(10 percent in the case of stock of a real estate investment trust)" after "5 percent of such class of stock", and

(2) by inserting ", and any distribution to a qualified shareholder (as defined in subsection (c)(3)(B)(ii)) shall not be treated as gain recognized from the sale or exchange of a United States real property interest to the extent that the stock of the real estate investment trust held by such qualified shareholder is not treated as a United States real property interest under subsection (c)(3)(B)" before the period at the end.

(c) CONFORMING AMENDMENT.—Subparagraph (C) of section 897(c)(6) of such Code is amended by striking "more than 5 percent" and inserting "more than a particular percentage".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to dispositions made after the date of the enactment of this Act.

(2) DISTRIBUTIONS OF REAL ESTATE INVESTMENT TRUSTS.—The amendments made by subsection (b) shall apply to distributions made after the date of the enactment of this Act.

SEC. 3. APPLICATION OF CONTINUOUS LEVY TO TAX LIABILITIES OF CERTAIN FEDERAL CONTRACTORS.

(a) IN GENERAL.—Subsection (f) of section 6330 of the Internal Revenue Code of 1986 is amended by striking “or” at the end of paragraph (2), by inserting “or” at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

“(4) The Secretary has served a Federal contractor levy.”.

(b) FEDERAL CONTRACTOR LEVY.—Subsection (h) of section 6330 of such Code is amended—

(1) by striking all that precedes “any levy in connection with the collection” and inserting the following:

“(h) DEFINITIONS RELATED TO EXCEPTIONS.—For purposes of subsection (f)—

“(1) DISQUALIFIED EMPLOYMENT TAX LEVY.—A disqualified employment tax levy is”; and

(2) by adding at the end the following new paragraph:

“(2) FEDERAL CONTRACTOR LEVY.—A Federal contractor levy is any levy if the person whose property is subject to the levy (or any predecessor of such person) is a Federal contractor.”.

(c) CONFORMING AMENDMENT.—The heading of subsection (f) of section 6330 of such Code is amended by striking “JEOPARDY AND STATE REFUND COLLECTION” and inserting “EXCEPTIONS”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to levies issued after December 31, 2010.

SEC. 4. PAYGO COMPLIANCE.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. CROWLEY) and the gentleman from Texas (Mr. BRADY) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

Mr. CROWLEY. Madam Speaker, I yield myself 4 minutes.

I am pleased to introduce this bill, the Real Estate Jobs and Investment Act. This bill will help address the growing problems in the U.S. commercial real estate market by attracting new capital through alleviating punitive taxes that discourage investment in the United States real estate markets.

Currently, almost \$170 billion in commercial U.S. real estate is underwater, with many of these mortgages needing to be refinanced within the next 2 to 3 years. Without a new infusion of capital, a collapse in the commercial real estate market could lead to yet another economic downturn. That is a risk that our country can simply not afford right now.

Under current U.S. tax law, foreign investors generally do not pay capital gains taxes when they sell stock in a

U.S. corporation, such as a Microsoft or Google, unless that U.S. corporation is a real estate investment trust, also known as a REIT, which is like a mutual fund for real estate.

Because Federal tax law imposes certain punitive taxes on foreign investment in U.S. real estate, foreign investors are not putting their money into the U.S. commercial real estate sector. The Real Estate Jobs and Investment Act takes direct aim at this problem by doubling the amount of foreign capital that can be invested in a publicly traded real estate investment trust.

The bill is fully PAYGO compliant, so it won't increase our debt or our deficit by even a single penny.

I also want my colleagues to know that this bill will not disadvantage U.S. taxpayers over foreign taxpayers. That's because foreign investment in U.S. real property will continue to be taxed in the same manner as domestic investment. Under current tax law, only foreign investors in U.S. real estate are penalized with a special tax. This bill relieves part of the tax on real estate, a tax that does not exist when a foreigner invests in any other U.S. asset class such as stocks.

Further, this bill will not open the door to another Dubai Ports situation or to greater control of U.S. real estate by countries who do not have our best interests at heart.

This bill only increases from 5 percent to 10 percent the amount a foreign investor can place in a real estate investment trust. This is not ownership control by any means.

Any foreign investor owning more than 10 percent in one of these real estate investment vehicles will still be forced to pay the punitive tax and will have to register with the Securities and Exchange Commission.

This bill aims to correct the current tax law which discourages foreign investment in U.S. real estate and bring new investment into commercial real estate.

The bill has been endorsed by a number of organizations, including the Real Estate Roundtable, Organization for International Investment, National Association for Real Estate Investment Trusts, the International Council of Shopping Centers, the Building Owners and Managers Association, the National Association of Real Estate Investment Managers, the Association of Foreign Investors in Real Estate, the National Multi Housing Council, and the National Apartment Association.

I believe this is a commonsense reform at a time when new investments are needed in our U.S. economy. The more we can do to address the problems in commercial real estate before they boil over, the better.

I reserve the balance of my time.

Mr. BRADY of Texas. I yield myself such time as I may consume.

(Mr. BRADY of Texas asked and was given permission to revise and extend his remarks.)

Mr. BRADY of Texas. Madam Speaker, we're all aware of the ongoing tur-

bulence in the credit markets that has made it very difficult for owners of real estate, including commercial real estate, to obtain financing for new projects or to refinance existing ones. Transaction volumes have fallen, asset values have fallen, and rents have fallen. Our real estate markets are desperate for infusion of new capital.

One significant source of capital investment for these projects is foreign investors. It's important for Congress to periodically review the restrictions that the U.S. Tax Code imposes on foreign investment to ensure that these restrictions do not unnecessarily discourage this investment, especially during times like this.

Earlier this year, the gentleman from Ohio (Mr. TIBERI) worked with the gentleman from New York (Mr. CROWLEY) to introduce H.R. 4539, legislation that would modify some of the tax rules in this area collectively known as FIRPTA, the Foreign Investment in Real Property Tax Act. Today's legislation based on their earlier bill would remove an unnecessary barrier to foreign investment in the U.S. real estate market, providing increased liquidity that is sorely needed.

Under current law, foreign portfolio investors who own less than 5 percent of U.S. publicly traded companies are exempted from the more stringent tax regime under FIRPTA. This bill would simply raise that 5 percent threshold for this FIRPTA exception to 10 percent for investments in publicly traded real estate investment trusts, or REITs. This modification would encourage investment of additional capital into our real estate markets at a time when the credit markets need it most.

Let me say just a word about the offset the majority has chosen for this bill, the tightening of the IRS levy rules for Federal contractors identified as owing taxes. This provision is based on a similar proposal that was included in the President's fiscal year 2011 budget request, and it was subsequently included in H.R. 4849, the small business and infrastructure spending bill introduced by Chairman LEVIN, which passed the House on a mostly party-line vote on March 24 of this year.

The bill we're considering today was introduced just last night, and for the very first time, the real estate proposal that Mr. TIBERI had been working on with the gentleman from New York has been paired up with this particular offset. Since the bill with this new offset was introduced last night, we've conducted considerable due diligence on this provision, including discussion with representatives of numerous associations representing potentially affected taxpayers.

While none of these associations have offered any expressions of support for this offset, we are, at this time, unaware of any group that intends to actively oppose this bill because of this provision. Should H.R. 5901 pass the

House, I'll certainly continue to discuss this new provision with potentially affected groups to ensure it does not place any undue burden on taxpayers.

That being said, the crisis in the credit markets is a serious concern we all share, and this bill will help our struggling real estate markets get the capital they need.

I yield back the balance of my time.

Mr. CROWLEY. Mr. Speaker, in closing, I want to thank the gentleman for his comments and remarks and also recognize we may very well have to come back to do additional work to help this industry because this is a national crisis. It's not just in New York. It's not just in Texas or Boston or L.A. or Chicago. It's really all over the country, and I think this is a small part right now to help infuse some foreign investment and cash into the system to put people back to work, to get construction workers back on the job, and to get people building out offices, office spacing, and really bringing in more capital to lift up this industry.

GENERAL LEAVE

Mr. CROWLEY. I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5901.

The SPEAKER pro tempore (Mr. Lujan). Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. VAN HOLLEN. Madam Speaker, I rise in support of the Real Estate Jobs and Investment Act (H.R. 5901), and I commend Congressman CROWLEY and the Ways and Means committee staff for the hard work that went into crafting this bill.

Even as we work hard to address the current foreclosure crisis in the residential housing market, a growing chorus of economists is warning that the commercial real estate market could very well be the next shoe to fall. In order to get in front of that looming crisis, and the additional burden on our recovery it would represent, Congress should consider any and all responsible steps we can take now to head off that outcome.

This legislation is that kind of step. By increasing from 5 percent to 10 percent the amount of foreign capital that can be invested in a publicly traded REIT before the Foreign Investment in Real Property Tax Act, FIRPTA, filing and withholding requirements kick in, we can attract more foreign investment to our commercial real estate market at a time when that investment is needed most—and we can do it in a way that doesn't disadvantage U.S. taxpayers or cede ownership control of U.S. real estate to foreign interests.

Madam Speaker, this is forward-looking legislation. It's fully paid for. I urge a "yes" vote.

Mr. CROWLEY. I yield back the balance of my time.

□ 0000

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. CROWLEY) that the House suspend the rules and pass the bill, H.R. 5901.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. CROWLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ASSISTANCE, QUALITY, AND AFFORDABILITY ACT OF 2010

Mr. MARKEY of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5320) to amend the Safe Drinking Water Act to increase assistance for States, water systems, and disadvantaged communities; to encourage good financial and environmental management of water systems; to strengthen the Environmental Protection Agency's ability to enforce the requirements of the Act; to reduce lead in drinking water; to strengthen the endocrine disruptor screening program; and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5320

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Assistance, Quality, and Affordability Act of 2010".

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

- Sec. 1. Short title; table of contents; references.
- Sec. 2. Technical assistance for small public water systems.
- Sec. 3. Prevailing wages.
- Sec. 4. Use of funds.
- Sec. 5. Requirements for use of American materials.
- Sec. 6. Data on variances, exemptions, and persistent violations.
- Sec. 7. Assistance for restructuring.
- Sec. 8. Priority and weight of applications.
- Sec. 9. Disadvantaged communities.
- Sec. 10. Administration of State loan funds.
- Sec. 11. State revolving loan funds for American Samoa, Northern Mariana Islands, Guam, and the Virgin Islands.
- Sec. 12. Authorization of appropriations.
- Sec. 13. Negotiation of contracts.
- Sec. 14. Affordability of new standards.
- Sec. 15. Focus on lifecycle costs.
- Sec. 16. Enforcement.
- Sec. 17. Reducing lead in drinking water.
- Sec. 18. Endocrine disruptor screening program.
- Sec. 19. Presence of pharmaceuticals and personal care products in sources of drinking water.
- Sec. 20. Electronic reporting of compliance monitoring data to the Administrator.
- Sec. 21. Budgetary effects.

(c) REFERENCES.—Except as otherwise specified, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section

or other provision of the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

SEC. 2. TECHNICAL ASSISTANCE FOR SMALL PUBLIC WATER SYSTEMS.

Subsection (e) of section 1442 (42 U.S.C. 300j-1(e)) is amended to read as follows:

"(e) TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—The Administrator, directly or through grants or cooperative agreements with nonprofit organizations, may provide technical assistance to small public water systems to enable such systems to achieve and maintain compliance with applicable national primary drinking water regulations.

"(2) TYPES OF ASSISTANCE.—Technical assistance under paragraph (1) may include on-site technical assistance and compliance assistance; circuit-rider and multi-State regional technical assistance programs; training; assistance with implementing source water protection programs; assistance with increasing water or energy efficiency; assistance with designing, installing, or operating sustainable energy infrastructure to produce or capture sustainable energy on site or through water transport; assistance with developing technical, financial, and managerial capacity; assistance with long-term infrastructure planning; assistance with applying for funds from a State loan fund under section 1452; and assistance with implementation of monitoring plans, rules, regulations, and water security enhancements.

"(3) PRIORITY.—In providing assistance under this subsection, the Administrator shall give priority to assistance that will promote compliance with national primary drinking water standards, public health protection, and long-term sustainability of small public water systems. In awarding grants and cooperative assistance under paragraph (1) to nonprofit organizations, the Administrator shall (subject to the preceding sentence) give greater weight to nonprofit organizations that, as determined by the Administrator, are most qualified and most effective and that, as determined by the Administrator using information where available, are providing the types of technical assistance that are preferred by small public water systems.

"(4) COMPETITIVE PROCEDURES.—It is the presumption of Congress that any award of assistance under this subsection will be awarded using competitive procedures based on merit. If assistance is awarded under this subsection using procedures other than competitive procedures, the Administrator shall submit to the Congress, within 90 days of the award decision, a report explaining why competitive procedures were not used.

"(5) FUNDING.—

"(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$20,000,000 for each of fiscal years 2011 through 2015.

"(B) PROHIBITION ON EARMARKS.—No funds made available under this subsection may be used to carry out a provision or report language included primarily at the request of a Member, Delegate, Resident Commissioner, or Senator providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality, or congressional district, other than through a statutory or administrative formula-driven or competitive award process.

"(C) LOBBYING EXPENSES.—No portion of any State loan fund established under section 1452 and no portion of any funds made available under this subsection may be used for lobbying expenses.