

112TH CONGRESS
1ST SESSION

S. 1600

To enhance the ability of community banks to foster economic growth and serve their communities, boost small businesses, increase individual savings, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 22, 2011

Mr. MORAN (for himself, Mr. BLUNT, and Mr. BARRASSO) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To enhance the ability of community banks to foster economic growth and serve their communities, boost small businesses, increase individual savings, and for other purposes.

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 “Community Banks Serving Their Communities First
6 Act” or the “Communities First Act”.

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

Sec. 1. Short title; table of contents.

TITLE I—TARGETED REGULATORY RELIEF FOR COMMUNITY BANKS

- Sec. 101. Short form reports of condition for certain community banks.
 Sec. 102. Community bank exemption from annual management assessment of internal controls requirement of the Sarbanes-Oxley Act of 2002.
 Sec. 103. Changes required to small bank holding company policy statement on assessment of financial and managerial factors.
 Sec. 104. Increase in shareholder registration threshold.
 Sec. 105. FSOC review of Bureau regulations.
 Sec. 106. Federal Reserve examination authority.

TITLE II—REGULATORY RELIEF FOR COMMUNITY BANKS AND THEIR CUSTOMERS

- Sec. 201. Escrow requirements.
 Sec. 202. Exception to annual privacy notice requirement under the Gramm-Leach-Bliley Act.
 Sec. 203. Agriculture loan guarantees.
 Sec. 204. Reimbursement for production of mandated records.
 Sec. 205. Loan amortization.
 Sec. 206. Loan appraisals.
 Sec. 207. Credit ratings.
 Sec. 208. Small business data collection exclusion.

TITLE III—TAX RELIEF FOR BANK DEPOSITORS, RURAL BANKS, MUNICIPALITIES, BANKS ORGANIZED AS LIMITED LIABILITY COMPANIES, AND YOUNG SAVERS

- Sec. 301. Reduced rate and deferral of income recognition on long-term certificates of deposit.
 Sec. 302. Exclusion for interest on loans secured by agricultural real property.
 Sec. 303. Update in cap on qualified small issue bonds.
 Sec. 304. Limited liability company tax treatment for FDIC-insured limited liability companies.
 Sec. 305. Young savers' accounts.

TITLE IV—TAX RELIEF FOR COMMUNITY BANKS AND HOLDING COMPANIES

- Sec. 401. Limited tax credit.
 Sec. 402. Qualifying investments in small bank issuers.
 Sec. 403. 5-year NOL carryback for certain banks.

TITLE V—SMALL BUSINESS SUBCHAPTER S REFORMS

- Sec. 501. Increasing shareholder limit for subchapter S to 200.
 Sec. 502. Issuance of preferred stock permitted for subchapter S corporations.
 Sec. 503. IRA shareholders.

1 **TITLE I—TARGETED REGU-**
 2 **LATORY RELIEF FOR COMMU-**
 3 **NITY BANKS**

4 **SEC. 101. SHORT FORM REPORTS OF CONDITION FOR CER-**
 5 **TAIN COMMUNITY BANKS.**

6 (a) IN GENERAL.—Section 7(a) of the Federal De-
 7 posit Insurance Act (12 U.S.C. 1817(a)) is amended by
 8 adding at the end the following:

9 “(12) SHORT FORM REPORTS OF CONDITION
 10 FOR COMMUNITY BANKS.—

11 “(A) IN GENERAL.—With respect to re-
 12 ports of condition required under paragraph (3)
 13 for each calendar quarter, an insured depository
 14 institution described in subparagraphs (A), (B),
 15 (C), and (D) of section 10(d)(4) may submit a
 16 short form of any such report of condition in 2
 17 nonsequential quarters of any calendar year.

18 “(B) ASSET ADJUSTMENTS.—For purposes
 19 of this paragraph—

20 “(i) section 10(d)(4)(A) shall be ap-
 21 plied by substituting ‘\$10,000,000,000’ for
 22 ‘\$500,000,000’; and

23 “(ii) section 10(d)(4)(C) shall be ap-
 24 plied by substituting ‘\$1,000,000,000’ for
 25 ‘\$100,000,000’.

1 “(C) SHORT FORM DEFINED.—In this
2 paragraph, the term ‘short form’ means a re-
3 port of condition required under paragraph (3)
4 that is in a format established by the appro-
5 priate Federal banking agency, after notice and
6 opportunity for comment, that—

7 “(i) is significantly and materially less
8 burdensome for the insured depository in-
9 stitution to prepare than the format of the
10 report of condition otherwise required
11 under paragraph (3); and

12 “(ii) provides sufficient material infor-
13 mation for the appropriate Federal bank-
14 ing agency to assure the maintenance of
15 the safe and sound condition of the deposi-
16 tory institution and safe and sound prac-
17 tices.”.

18 (b) REGULATIONS.—Any regulation required to carry
19 out section 7(a)(12) of the Federal Deposit Insurance Act,
20 as added by subsection (a), shall be published in final form
21 not later than 6 months after the date of enactment of
22 this Act.

1 **SEC. 102. COMMUNITY BANK EXEMPTION FROM ANNUAL**
2 **MANAGEMENT ASSESSMENT OF INTERNAL**
3 **CONTROLS REQUIREMENT OF THE SAR-**
4 **BANES-OXLEY ACT OF 2002.**

5 Section 404 of the Sarbanes-Oxley Act of 2002 (15
6 U.S.C. 7262) is amended by adding at the end the fol-
7 lowing:

8 “(d) **COMMUNITY BANK EXEMPTION.**—

9 “(1) **IN GENERAL.**—This section and the rules
10 prescribed under this section shall not apply in any
11 year to any insured depository institution which, as
12 of the close of the preceding year, had total assets,
13 as determined on a consolidated basis, of
14 \$1,000,000,000 or less.

15 “(2) **ADJUSTMENT OF AMOUNT.**—The Commis-
16 sion shall annually adjust the dollar amount in para-
17 graph (1) by an amount equal to the percentage in-
18 crease, for the most recent year, in total assets held
19 by all depository institutions, as reported by the
20 Federal Deposit Insurance Corporation.”.

1 **SEC. 103. CHANGES REQUIRED TO SMALL BANK HOLDING**
2 **COMPANY POLICY STATEMENT ON ASSESS-**
3 **MENT OF FINANCIAL AND MANAGERIAL FAC-**
4 **TORS.**

5 (a) SMALL BANK HOLDING COMPANY POLICY
6 STATEMENT ON ASSESSMENT OF FINANCIAL AND MANA-
7 GERAL FACTORS.—

8 (1) IN GENERAL.—Not later than 6 months
9 after the date of enactment of this Act, the Board
10 of Governors of the Federal Reserve System shall
11 publish in the Federal Register proposed revisions to
12 appendix C to part 225 of title 12, Code of Federal
13 Regulations (commonly referred to as the “Small
14 Bank Holding Company Policy Statement on Assess-
15 ment of Financial and Managerial Factors”) that
16 provide that the requirements of such appendix C
17 shall apply to a bank holding company that has pro
18 forma consolidated assets of less than
19 \$1,000,000,000.

20 (2) ADJUSTMENT OF AMOUNT.—The Board of
21 Governors of the Federal Reserve System shall an-
22 nually adjust the dollar amount referred to in para-
23 graph (1) in the Small Bank Holding Company Pol-
24 icy Statement on Assessment of Financial and Man-
25 agerial Factors—the maximum dollar amount of pro
26 forma consolidated assets required to qualify as a

1 small bank holding company under appendix C to
2 part 225 of title 12, Code of Federal Regulations, by
3 an amount equal to the percentage increase, for the
4 most recent year, in total assets held by all insured
5 depository institutions, as determined by the Board.

6 (b) INCREASE IN DEBT-TO-EQUITY RATIO OF SMALL
7 BANK HOLDING COMPANY.—Before the end of the 6-
8 month period beginning on the date of enactment of this
9 Act, the Board of Governors of the Federal Reserve Sys-
10 tem shall publish in the Federal Register proposed revi-
11 sions to appendix C to part 225 of title 12, Code of Fed-
12 eral Regulations (commonly referred to as the “Small
13 Bank Holding Company Policy Statement on Assessment
14 of Financial and Managerial Factors”) to increase the
15 debt-to-equity ratio allowable for a small bank holding
16 company in order to remain eligible to pay a corporate
17 dividend and to remain eligible for expedited processing
18 procedures under part 225 of title 12, Code of Federal
19 Regulations (commonly referred to as “Regulation Y”)
20 from 1:1 to 3:1.

21 **SEC. 104. INCREASE IN SHAREHOLDER REGISTRATION**
22 **THRESHOLD.**

23 (a) REGISTRATION.—Section 12(g) of the Securities
24 Exchange Act of 1934 (15 U.S.C. 78l(g)) is amended—

1 (1) in paragraph (1), by striking subparagraphs
2 (A) and (B) and inserting the following:

3 “(A) in the case of an issuer that is a bank or
4 a bank holding company, as that term is defined in
5 section 2 of the Bank Holding Company Act of 1956
6 (12 U.S.C. 1841), within 120 days after the last day
7 of its first fiscal year on which the issuer has a class
8 of equity security (other than an exempted security)
9 held of record by 2,000 persons or more; and

10 “(B) in the case of an issuer that is not a bank
11 or bank holding company, not later than 120 days
12 after the last day of its first fiscal year on which the
13 issuer has a class of equity securities (other than an
14 exempted security) held of record by 500 persons or
15 more,”; and

16 (2) in paragraph (4), by striking “three hun-
17 dred” and inserting “300 persons, or, in the case of
18 a bank or a bank holding company, as that term is
19 defined in section 2 of the Bank Holding Company
20 Act of 1956 (12 U.S.C. 1841), 1700”.

21 (b) SUSPENSION.—Section 15(d) of the Securities
22 Exchange Act of 1934 (15 U.S.C. 78o(d)) is amended, in
23 the third sentence, by striking “three hundred” and in-
24 serting “300 persons, or, in the case of bank or a bank
25 holding company, as that term is defined in section 2 of

1 the Bank Holding Company Act of 1956 (12 U.S.C.
2 1841), 1700”.

3 **SEC. 105. FSOC REVIEW OF BUREAU REGULATIONS.**

4 Section 1023(a) of the Consumer Financial Protec-
5 tion Act of 2010 (12 U.S.C. 5513(a)) is amended by strik-
6 ing “would put the safety and soundness of the United
7 States banking system or the stability of the financial sys-
8 tem of the United States at risk.” and inserting the fol-
9 lowing: “is inconsistent with the safe and sound operation
10 of United States financial institutions.”.

11 **SEC. 106. FEDERAL RESERVE EXAMINATION AUTHORITY.**

12 Section 1012(c) of the Consumer Financial Protec-
13 tion Act of 2010 (12 U.S.C. 5492(c)) is amended—

14 (1) by striking paragraph (1); and

15 (2) by redesignating paragraphs (2) through
16 (5) as paragraphs (1) through (4), respectively.

17 **TITLE II—REGULATORY RELIEF**
18 **FOR COMMUNITY BANKS AND**
19 **THEIR CUSTOMERS**

20 **SEC. 201. ESCROW REQUIREMENTS.**

21 (a) IN GENERAL.—Section 129D(c) of the Truth in
22 Lending Act (15 U.S.C. 1639d(c)), as added by section
23 1461 of the Dodd-Frank Wall Street Reform and Con-
24 sumer Protection Act (Public Law 111–203; 124 Stat.
25 2178) is amended—

1 (1) by redesignating paragraphs (1), (2), (3),
2 and (4) as subparagraph (A), (B), (C), and (D), re-
3 spectively, and moving the margins 2 ems to the
4 right;

5 (2) by striking “The Bureau” and inserting the
6 following:

7 “(1) IN GENERAL.—The Bureau”; and

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

9 “(2) TREATMENT OF LOANS HELD BY SMALLER
10 INSTITUTIONS.—The Bureau shall, by regulation,
11 exempt from the requirements of subsection (a) any
12 loan secured by a first lien on the principal dwelling
13 of a consumer, if such loan is held by an insured de-
14 pository institution having assets of
15 \$10,000,000,000 or less.”.

16 **SEC. 202. EXCEPTION TO ANNUAL PRIVACY NOTICE RE-**
17 **QUIREMENT UNDER THE GRAMM-LEACH-BLI-**
18 **LEY ACT.**

19 Section 503 of the Gramm-Leach-Bliley Act (15
20 U.S.C. 6803) is amended by adding at the end the fol-
21 lowing:

22 “(f) EXCEPTION TO ANNUAL NOTICE REQUIRE-
23 MENT.—A financial institution shall not be required to
24 provide an annual disclosure under this section until such
25 time as the financial institution—

1 “(1) fails to provide nonpublic personal infor-
2 mation in accordance with the provisions of sub-
3 section (b)(2) or (e) of section 502 or regulations
4 prescribed under section 504(b);

5 “(2) shares information with affiliates described
6 in section 603(d)(2)(A) of the Fair Credit Reporting
7 Act; or

8 “(3) changes its policies and practices with re-
9 gard to disclosing nonpublic personal information
10 from the policies and practices that were disclosed in
11 the most recent disclosure sent to consumers in ac-
12 cordance with this subsection.

13 “(g) EXCEPTION TO NOTICE REQUIREMENT.—A fi-
14 nancial institution shall not be required to provide any dis-
15 closure under this section if—

16 “(1) the financial institution is licensed by a
17 State and is subject to existing regulation of con-
18 sumer confidentiality that prohibits disclosure of
19 nonpublic personal information without knowing and
20 expressed consent of the consumer in the form of
21 laws, rules, or regulation of professional conduct or
22 ethics promulgated either by the court of highest ap-
23 pellate authority or by the principal legislative body
24 or regulatory agency or body of any State, the Dis-

1 trict of Columbia, or any territory of the United
2 States; or

3 “(2) the financial institution is licensed by a
4 State and becomes subject to future regulation of
5 consumer confidentiality that prohibits disclosure of
6 nonpublic personal information without knowing and
7 expressed consent of the consumer in the form of
8 laws, rules, or regulation of professional conduct or
9 ethics promulgated either by the court of highest ap-
10 pellate authority or by the principal legislative body
11 or regulatory agency or body of any State, the Dis-
12 trict of Columbia, or any territory of the United
13 States.”.

14 **SEC. 203. AGRICULTURE LOAN GUARANTEES.**

15 (a) FEES.—Section 310B(g)(5) of the Consolidated
16 Farm and Rural Development Act (7 U.S.C. 1932(g)(5))
17 is amended by inserting before the period the following:
18 “, except that for a loan in an amount of less than
19 \$5,000,000, the Secretary may assess a 1-time fee of 1
20 percent or less of the guaranteed principal portion of the
21 loan”.

22 (b) GUARANTEE AMOUNTS.—Section 364 of the Con-
23 solidated Farm and Rural Development Act (7 U.S.C.
24 2006f) is amended—

25 (1) in subsection (a)—

1 (A) in paragraph (3)—

2 (i) by striking “may” and inserting
3 “shall”; and

4 (ii) by striking “standards that are
5 not less stringent than”; and

6 (B) in paragraph (4), by inserting before
7 the period the following: “, except that the Sec-
8 retary may guarantee not more than 90 percent
9 of a loan made by a certified lender if such loan
10 is in an amount of less than \$5,000,000”; and
11 (2) in subsection (b)—

12 (A) in paragraph (1)—

13 (i) in subparagraph (B), by striking
14 “and” at the end;

15 (ii) in subparagraph (C), by striking
16 the period at the end and inserting “;
17 and”; and

18 (iii) by adding at the end the fol-
19 lowing:

20 “(D) in the absence of a demand for or ex-
21 perience with guaranteed loans made under a
22 rural development program, proven experience
23 in making small business loans.”; and

24 (B) in paragraph (5)(A), by inserting be-
25 fore the semicolon the following: “, except that

1 the Secretary may guarantee not more than 90
2 percent of a loan made by a certified lender if
3 such loan is in an amount of less than
4 \$5,000,000”.

5 **SEC. 204. REIMBURSEMENT FOR PRODUCTION OF MAN-**
6 **DATED RECORDS.**

7 (a) CORPORATE RECORDS.—Section 1101(4) of the
8 Right to Financial Privacy Act of 1978 (12 U.S.C.
9 3401(4)) is amended by inserting before the semicolon the
10 following: “, except that, for purposes of section 1115,
11 such term includes any person”.

12 (b) CLARIFICATION OF SCOPE.—Section 1115 of the
13 Right to Financial Privacy Act of 1978 (12 U.S.C. 3415)
14 is amended by adding at the end the following new sub-
15 section:

16 “(c) CLARIFICATION OF SCOPE.—Notwithstanding
17 subsection (a), the fee for reimbursement described under
18 such subsection shall be paid by a Government authority
19 for all records required to be assembled or provided for
20 any Federal law enforcement or investigative purpose out-
21 side of the regular examination process by any financial
22 institution with total assets of \$1,000,000,000 or less.”.

23 **SEC. 205. REPORT ON LOAN LOSS AMORTIZATION.**

24 (a) IN GENERAL.—Not later than 90 days after the
25 date of enactment of this Act, the Federal Deposit Insur-

1 ance Corporation (hereafter in this title referred to as the
2 “Corporation”) shall submit to the Committee on Bank-
3 ing, Housing, and Urban Affairs of the Senate and the
4 Committee on Financial Services of the House of Rep-
5 resentatives, a report containing an analysis of the costs
6 and benefits of allowing an insured depository institution
7 having less than \$10,000,000,000 in assets the ability to
8 amortize any loan loss or write-down (resulting from
9 FASB Statement 114 or 144) over a 10-year period.

10 (b) **FDIC AUTHORITY.**—If the Corporation concludes
11 that the costs of an approach described in subsection (a)
12 outweigh the benefits thereof, the Corporation shall also
13 include in its report to Congress under subsection (a) any
14 recommended alternatives to a 10-year loan loss amortiza-
15 tion which could provide relief for insured depository insti-
16 tutions having less than \$10,000,000,000 in assets.

17 (c) **CONSULTATION.**—In preparing the report re-
18 quired by this section, the Corporation shall consult with
19 the other prudential banking supervisors.

20 **SEC. 206. REPORT ON LOAN APPRAISALS.**

21 (a) **IN GENERAL.**—Not later than 90 days after the
22 date of enactment of this Act, the Corporation shall sub-
23 mit to the Committee on Banking, Housing, and Urban
24 Affairs of the Senate and the Committee on Financial
25 Services of the House of Representatives, a report con-

1 taining the feasibility, costs, and benefits of allowing an
2 insured depository institution having less than
3 \$10,000,000,000 in assets to use a 5-year average of the
4 appraised value of any real estate securing a loan held
5 by the institution, for purposes determining capital levels.

6 (b) CONSULTATION.—In preparing the report re-
7 quired by this section, the Corporation shall consult with
8 the other prudential banking supervisors.

9 **SEC. 207. CREDIT RATINGS.**

10 Section 939A(b) of the Dodd-Frank Wall Street Re-
11 form and Consumer Protection Act (15 U.S.C. 78o–7
12 note) is amended—

13 (1) by striking “to remove” and all that follows
14 through the first period and inserting the following:
15 “to specify appropriate levels of due diligence for
16 regulated entities to use for purposes of evaluating
17 the creditworthiness of the obligor or assets under-
18 lying a rated security or instrument based on the
19 characteristics of such obligor or assets.”; and

20 (2) in the second sentence—

21 (A) by striking “credit-worthiness for use”
22 and inserting “due diligence for use”; and

23 (B) by striking “such standards” and in-
24 serting “such evaluations”.

1 **SEC. 208. SMALL BUSINESS DATA COLLECTION EXCLUSION.**

2 Section 704B(h)(1) of the Equal Credit Opportunity
3 Act (15 U.S.C. 1691c-2(h)(1)) is amended by inserting
4 before the period the following: “and that has assets of
5 more than \$1,000,000,000”.

6 **TITLE III—TAX RELIEF FOR**
7 **BANK DEPOSITORS, RURAL**
8 **BANKS, MUNICIPALITIES,**
9 **BANKS ORGANIZED AS LIM-**
10 **ITED LIABILITY COMPANIES,**
11 **AND YOUNG SAVERS**

12 **SEC. 301. REDUCED RATE AND DEFERRAL OF INCOME REC-**
13 **OGNITION ON LONG-TERM CERTIFICATES OF**
14 **DEPOSIT.**

15 (a) DEFERRAL OF INCOME RECOGNITION.—Section
16 451 of the Internal Revenue Code of 1986 is amended by
17 adding at the end the following new subsection:

18 “(j) CERTIFICATES OF DEPOSITS HELD BY CASH
19 BASIS INDIVIDUALS.—In the case of an individual on the
20 cash receipts and disbursements method of accounting
21 who holds a nonnegotiable certificate of deposit, interest
22 income which is not made available for withdrawal before
23 maturity of the certificate without penalty shall not be in-
24 cludible in gross income before the certificate is redeemed
25 or matures.”.

1 (b) INTEREST INCOME ON LONG-TERM CERTIFI-
 2 CATES OF DEPOSIT.—Subparagraph (A) of section
 3 1(h)(11) of such Code is amended by striking “increased
 4 by qualified dividend income” and inserting the following:
 5 “increased by—

6 “(i) qualified dividend income, and

7 “(ii) interest income on any nonnego-
 8 tiable certificate of deposit—

9 “(I) with a fixed maturity date
 10 which is 1 year or more from the date
 11 of issue, and

12 “(II) the interest on which is not
 13 made available for withdrawal before
 14 maturity without penalty.”.

15 (c) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to taxable years beginning after
 17 the date of enactment of this Act.

18 **SEC. 302. EXCLUSION FOR INTEREST ON LOANS SECURED**

19 **BY AGRICULTURAL REAL PROPERTY.**

20 (a) IN GENERAL.—Part III of subchapter B of chap-
 21 ter 1 of the Internal Revenue Code of 1986 is amended
 22 by inserting after section 139D the following new section:

1 **“SEC. 139E. INTEREST ON LOANS SECURED BY AGRICUL-**
 2 **TURAL REAL PROPERTY.**

3 “(a) EXCLUSION.—Gross income shall not include in-
 4 terest received by a qualified lender on any qualified real
 5 estate loan.

6 “(b) DEFINITIONS.—For purposes of this section—

7 “(1) QUALIFIED LENDER.—The term ‘qualified
 8 lender’ means any bank or savings association the
 9 deposits of which are insured under the Federal De-
 10 posit Insurance Act (12 U.S.C. 1811 et seq.).

11 “(2) QUALIFIED REAL ESTATE LOAN.—The
 12 term ‘qualified real estate loan’ means any loan se-
 13 cured by agricultural real estate or by a leasehold
 14 mortgage (with a status as a lien) on agricultural
 15 real estate. For purposes of the preceding sentence,
 16 the determination of whether property securing such
 17 loan is agricultural real estate shall be made as of
 18 the time the interest income on such loan is accrued.

19 “(3) AGRICULTURAL REAL ESTATE.—The term
 20 ‘agricultural real estate’ means—

21 “(A) real property used for the production
 22 of 1 or more agricultural products, and

23 “(B) any single family residence—

24 “(i) which is the principal residence
 25 (within the meaning of section 121) of its
 26 occupant,

1 “(ii) which is located in a rural area
2 (as determined by the Secretary of Agri-
3 culture), which is not within a Metropoli-
4 tan Statistical Area (as defined by the Of-
5 fice of Management and Budget) and
6 which has a population (determined on the
7 basis of the most recent decennial census
8 for which data are available) of 2,500 or
9 less, and

10 “(iii) which is purchased or improved
11 with the proceeds of the qualified real es-
12 tate loan.

13 “(c) COORDINATION WITH SECTION 265.—Qualified
14 real estate loans shall be treated as obligations described
15 in section 265(a)(2) the interest on which is wholly exempt
16 from the taxes imposed by this subtitle.”.

17 (b) CLERICAL AMENDMENT.—The table of sections
18 for such part III is amended by inserting after the item
19 relating to section 139D the following new item:

 “Sec. 139E. Interest on loans secured by agricultural real property.”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to taxable years beginning after
22 the date of enactment of this Act.

1 **SEC. 303. UPDATE IN CAP ON QUALIFIED SMALL ISSUE**
2 **BONDS.**

3 (a) IN GENERAL.—Clause (i) of section 144(a)(4)(A)
4 of the Internal Revenue Code of 1986 is amended by strik-
5 ing “\$10,000,000” and inserting “\$30,000,000”.

6 (b) ADJUSTMENT OF CAP FOR INFLATION.—Sub-
7 section (a) of section 144 of such Code is amended by re-
8 designating paragraph (12) as paragraph (13) and by in-
9 serting after paragraph (11) the following new paragraph:

10 “(12) INFLATION ADJUSTMENT.—In the case of
11 any issue issued during a calendar year after 2011,
12 the \$30,000,000 amount contained in paragraph
13 (4)(A)(i) shall be increased by an amount equal to—

14 “(A) such dollar amount, multiplied by

15 “(B) the cost-of-living adjustment deter-
16 mined under section 1(f)(3) for such calendar
17 year by substituting ‘calendar year 2010’ for
18 ‘calendar year 1992’ in subparagraph (B)
19 thereof.

20 Any increase under the preceding sentence which is
21 not a multiple of \$100,000 shall be rounded to the
22 next lowest multiple of \$100,000.”.

23 (c) CONFORMING AMENDMENT.—The heading of
24 paragraph (4) of section 144(a) of such Code is amended
25 by striking “\$10,000,000 LIMIT” and inserting “INCREASED
26 LIMITATION”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to—

3 (1) obligations issued after the date of enact-
4 ment of this Act, and

5 (2) capital expenditures made after such date
6 with respect to obligations issued on or before such
7 date.

8 **SEC. 304. LIMITED LIABILITY COMPANY TAX TREATMENT**
9 **FOR FDIC-INSURED LIMITED LIABILITY COM-**
10 **PANIES.**

11 (a) IN GENERAL.—Paragraph (2) of section 7701(a)
12 of the Internal Revenue Code of 1986 (defining partner-
13 ship and partner) is amended to read as follows:

14 “(2) PARTNER AND PARTNERSHIP.—

15 “(A) IN GENERAL.—The term ‘partner-
16 ship’ includes a syndicate, group, pool, joint
17 venture, or other unincorporated organization,
18 through or by means of which any business, fi-
19 nancial operation, or venture is carried on, and
20 which is not, within the meaning of this title,
21 a trust or estate or a corporation; and the term
22 ‘partner’ includes a member in such a syn-
23 dicate, group, pool, joint venture, or organiza-
24 tion.

1 “(B) ELECTION BY CERTAIN BANKS TO BE
2 TAXED AS PARTNERSHIPS.—

3 “(i) IN GENERAL.—An eligible cor-
4 poration may elect to be treated as a part-
5 nership for purposes of this title.

6 “(ii) TAX TREATMENT.—In the case
7 of an eligible corporation making an elec-
8 tion under clause (i)—

9 “(I) no gain or loss shall be rec-
10 ognized to the corporation or the
11 shareholders by reason of an election
12 under clause (i), and

13 “(II) section 1374 shall apply to
14 the entity after such election.

15 “(iii) ELIGIBLE CORPORATION.—The
16 term ‘eligible corporation’ means any enti-
17 ty described in clause (iv) if—

18 “(I) such entity would (but for
19 this subparagraph) be treated as a C
20 corporation for purposes of this title,
21 and

22 “(II) the gross assets of such en-
23 tity (determined under the rules of
24 section 1202(d)) are \$10,000,000,000
25 or less.

1 “(iv) ENTITIES DESCRIBED.—The en-
2 tities described in this clause are the fol-
3 lowing:

4 “(I) Any bank (as defined in sec-
5 tion 581).

6 “(II) Any bank holding company
7 (as defined in section 2(a) of the
8 Bank Holding Company Act of 1956
9 (12 U.S.C. 1841(a))).

10 “(III) Any savings association
11 (as defined in section 3(b) of the Fed-
12 eral Deposit Insurance Act (12 U.S.C.
13 1813)).

14 “(IV) Any savings and loan hold-
15 ing company (as defined in section
16 10(a)(1)(D) of the Home Owners
17 Loan Act).”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to taxable years beginning after
20 the date of enactment of this Act.

21 **SEC. 305. YOUNG SAVERS’ ACCOUNTS.**

22 (a) IN GENERAL.—Section 408A of the Internal Rev-
23 enue Code of 1986 is amended by adding at the end the
24 following new subsection:

1 “(g) SPECIAL RULES FOR ROTH IRAS FOR CHIL-
2 DREN.—

3 “(1) GENERAL RULE.—In the case of a Roth
4 IRA maintained for the benefit of an individual who
5 has not attained age 26 before the close of the tax-
6 able year, the limitation on contributions under
7 paragraph (2) shall apply in lieu of paragraphs (2)
8 and (3) of subsection (c).

9 “(2) LIMITATION ON CONTRIBUTIONS.—The
10 aggregate amount of contributions for any taxable
11 year to all Roth IRAs maintained for the benefit of
12 an individual described in paragraph (1) with re-
13 spect to such taxable year shall not exceed the max-
14 imum amount allowable as a deduction under sub-
15 section (b)(1) of section 219 for such taxable year
16 (computed without regard to subsections (b)(1)(B),
17 (d)(1), and (g) of such section).”.

18 (b) ENFORCEMENT OF CONTRIBUTION LIMITS.—
19 Paragraphs (1)(B) and (2)(B) of section 4973(f) of such
20 Code are each amended by striking “and (c)(3)” and in-
21 serting “, (c)(3), and (g)(2)”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years beginning after
24 December 31, 2011.

1 **TITLE IV—TAX RELIEF FOR COM-**
2 **MUNITY BANKS AND HOLD-**
3 **ING COMPANIES**

4 **SEC. 401. LIMITED TAX CREDIT.**

5 (a) C CORPORATIONS.—Section 11 of the Internal
6 Revenue Code of 1986 (relating to tax imposed) is amend-
7 ed by adding at the end the following new subsection:

8 “(e) REDUCTION OF TAX ON COMMUNITY BANKS.—

9 “(1) IN GENERAL.—In the case of a C corpora-
10 tion which is a community bank, the aggregate tax
11 imposed by this section, section 55, and section
12 1201 shall be 80 percent of the aggregate tax which
13 would (but for this subsection) be imposed by such
14 sections.

15 “(2) MAXIMUM REDUCTION.—The reduction in
16 tax by reason of this subsection shall not exceed
17 \$250,000. Corporations treated as 1 corporation
18 under section 1202(d)(3) shall be so treated under
19 this subsection, and the limitation under the pre-
20 ceding sentence shall be allocated among such cor-
21 porations in such manner as the Secretary shall pre-
22 scribe.

23 “(3) INCREASED BENEFIT FOR BANKS OPER-
24 ATING IN DISTRESSED AREAS, ETC.—

1 “(A) IN GENERAL.—In the case of a bank
2 operating in an area referred to in subpara-
3 graph (B)—

4 “(i) paragraph (1) shall be applied by
5 substituting ‘50 percent’ for ‘80 percent’,
6 and

7 “(ii) paragraph (2) shall be applied by
8 substituting ‘\$500,000’ for ‘\$250,000’.

9 “(B) AREAS DESCRIBED.—The areas re-
10 ferred to in this subparagraph are—

11 “(i) empowerment zones and enter-
12 prise communities designated under section
13 1391,

14 “(ii) renewal communities designated
15 under section 1400E,

16 “(iii) low-income communities (as de-
17 fined in section 45D(e)), and

18 “(iv) distressed communities (within
19 the meaning of section 233 of the Bank
20 Enterprise Act of 1991 (12 U.S.C.
21 1834a(b))).

22 “(4) COMMUNITY BANK.—For purposes of this
23 section, the term ‘community bank’ means any of
24 the following entities the gross assets of which (de-

1 terminated under the rules of section 1202(d)) are
2 \$10,000,000,000 or less:

3 “(A) Any bank (as defined in section 581).

4 “(B) Any bank holding company (as de-
5 fined in section 2(a) of the Bank Holding Com-
6 pany Act of 1956 (12 U.S.C. 1841(a))).

7 “(C) Any savings association (as defined in
8 section 3(b) of the Federal Deposit Insurance
9 Act (12 U.S.C. 1813)).

10 “(D) Any savings and loan holding com-
11 pany (as defined in section 10(a)(1)(D) of the
12 Home Owners Loan Act).”.

13 (b) S CORPORATIONS.—Subsection (a) of section
14 1366 of such Code is amended by adding at the end the
15 following new paragraph:

16 “(3) REDUCTION OF TAX ON COMMUNITY
17 BANKS.—

18 “(A) IN GENERAL.—In the case of an S
19 corporation which is a community bank (as de-
20 fined in section 11(e)(4)), the net amount re-
21 quired to be taken into account by shareholders
22 (without regard to this paragraph) shall be re-
23 duced by the lesser of—

24 “(i) 20 percent of such net amount, or

25 “(ii) \$1,250,000.

1 “(B) INCREASED BENEFIT FOR BANKS OP-
2 ERATING IN DISTRESSED AREAS, ETC.—In the
3 case of a bank operating in an area referred to
4 in section 11(e)(3)(B)—

5 “(i) subparagraph (A)(i) shall be ap-
6 plied by substituting ‘50 percent’ for ‘20
7 percent’, and

8 “(ii) subparagraph (A)(ii) shall be ap-
9 plied by substituting ‘\$2,500,000’ for
10 ‘\$1,250,000’.”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxable years beginning after
13 the date of enactment of this Act.

14 **SEC. 402. QUALIFYING INVESTMENTS IN SMALL BANK**
15 **ISSUERS.**

16 (a) GENERALLY.—The principles of Internal Revenue
17 Service Notice 2010–2 shall apply to any qualifying invest-
18 ment by any person in a small bank issuer in the same
19 manner as if such investment had been made by the
20 Treasury Department pursuant to any of the Programs
21 (as defined in Notice 2010–2).

22 (b) DEFINITIONS.—For purposes of this section:

23 (1) The term “qualifying investment” means
24 any investment in the equity of a small bank issuer
25 that otherwise would have constituted an ownership

1 change under section 382(g) of the Internal Revenue
2 Code of 1986 (relating to limitations on net oper-
3 ating loss carry forward and certain built-in losses
4 following an ownership change).

5 (2) The term “small bank issuer” means any
6 insured depository institution as defined in section
7 3(c)(2) of the Federal Deposit Insurance Act (12
8 U.S.C. 1813(c)(2)) which—

9 (A) was required under a Prompt Correc-
10 tive Action order issued pursuant to section 38
11 of the Federal Deposit Insurance Act (12
12 U.S.C. 1831o), or a formal or informal enforce-
13 ment order, to raise capital as a result of an ex-
14 amination that took place during calendar years
15 2008 through 2012 by the Board of Governors
16 of the Federal Reserve System, the Office of
17 the Comptroller of the Currency, the Office of
18 Thrift Supervision, or the Federal Deposit In-
19 surance Corporation, and

20 (B) at the time of the order referred to in
21 subparagraph (A), had total consolidated assets
22 of \$10,000,000,000 or less.

1 **SEC. 403. 5-YEAR NOL CARRYBACK FOR CERTAIN BANKS.**

2 (a) IN GENERAL.—Subparagraph (H) of section
3 172(b)(1) of the Internal Revenue Code of 1986 is amend-
4 ed to read as follows:

5 “(H) CARRYBACK FOR 2010 AND 2011 NET
6 OPERATING LOSSES OF CERTAIN BANKS.—

7 “(i) IN GENERAL.—In the case of an
8 applicable 2010 or 2011 net operating loss
9 of a specified bank with respect to which
10 the taxpayer has elected the application of
11 this subparagraph—

12 “(I) subparagraph (A)(i) shall be
13 applied by substituting any whole
14 number elected by the taxpayer which
15 is more than 2 and less than 6 for ‘2’,

16 “(II) subparagraph (E)(ii) shall
17 be applied by substituting the whole
18 number which is one less than the
19 whole number substituted under sub-
20 clause (I) for ‘2’, and

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

23 “(ii) APPLICABLE 2010 OR 2011 NET
24 OPERATING LOSS.—For purposes of this
25 subparagraph, the term ‘applicable 2010
26 or 2011 net operating loss’ means—

1 “(I) the specified bank’s net op-
2 erating loss for any taxable year end-
3 ing in 2010 or 2011, or

4 “(II) if the specified bank elects
5 to have this subclause apply in lieu of
6 subclause (I), the specified bank’s net
7 operating loss for any taxable year be-
8 ginning in 2010 or 2011.

9 “(iii) SPECIFIED BANK.—For pur-
10 poses of this subparagraph, the term ‘spec-
11 ified bank’ means a community bank (as
12 defined in section 11(e)(4)) and any entity
13 which would be a community bank (as so
14 defined) if section 11(e)(4) were applied by
15 substituting ‘\$15,000,000,000’ for
16 ‘\$10,000,000,000’.

17 “(iv) ELECTION.—Any election under
18 this subparagraph shall be made in such
19 manner as may be prescribed by the Sec-
20 retary, and shall be made by the due date
21 (including extension of time) for filing the
22 taxpayer’s return for the taxable year of
23 the net operating loss. Any such election,
24 once made, shall be irrevocable.”.

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

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to net operating losses arising in
11 taxable years ending after December 31, 2009.

12 **TITLE V—SMALL BUSINESS**
13 **SUBCHAPTER S REFORMS**

14 **SEC. 501. INCREASING SHAREHOLDER LIMIT FOR SUB-**
15 **CHAPTER S TO 200.**

16 (a) IN GENERAL.—Subparagraph (A) of section
17 1361(b)(1) of the Internal Revenue Code of 1986, is
18 amended by striking “100” and inserting “200”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall apply to taxable years beginning after
21 December 31, 2011.

1 **SEC. 502. ISSUANCE OF PREFERRED STOCK PERMITTED**
2 **FOR SUBCHAPTER S CORPORATIONS.**

3 (a) IN GENERAL.—Section 1361 (defining S corpora-
4 tion) is amended by adding at the end the following new
5 subsection:

6 “(h) TREATMENT OF QUALIFIED PREFERRED
7 STOCK.—

8 “(1) IN GENERAL.—For purposes of this sub-
9 chapter—

10 “(A) qualified preferred stock shall not be
11 treated as a second class of stock, and

12 “(B) no person shall be treated as a share-
13 holder of the corporation by reason of holding
14 qualified preferred stock.

15 “(2) QUALIFIED PREFERRED STOCK DE-
16 FINED.—For purposes of this subsection, the term
17 ‘qualified preferred stock’ means stock which meets
18 the requirements of subparagraphs (A), (B), and (C)
19 of section 1504(a)(4). Stock shall not fail to be
20 treated as qualified preferred stock merely because
21 it is convertible into other stock.

22 “(3) DISTRIBUTIONS.—A distribution (not in
23 part or full payment in exchange for stock) made by
24 the corporation with respect to qualified preferred
25 stock shall be includible as ordinary income of the
26 holder and deductible to the corporation as an ex-

1 pense in computing taxable income under section
2 1363(b) in the year such distribution is received.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Paragraph (1) of section 1361(b) is amend-
5 ed by inserting “, except as provided in subsection
6 (f),” before “which does not”.

7 (2) Subsection (a) of section 1366 is amended
8 by adding at the end the following new paragraph:

9 “(3) ALLOCATION WITH RESPECT TO QUALI-
10 FIED PREFERRED STOCK.—The holders of qualified
11 preferred stock (as defined in section 1361(h)) shall
12 not, with respect to such stock, be allocated any of
13 the items described in paragraph (1).”.

14 (3) So much of clause (ii) of section
15 354(a)(2)(C) as precedes subclause (II) is amended
16 to read as follows:

17 “(ii) RECAPITALIZATION OF FAMILY-
18 OWNED CORPORATIONS AND S CORPORA-
19 TIONS.—

20 “(I) IN GENERAL.—Clause (i)
21 shall not apply in the case of a recapi-
22 talization under section 368(a)(I)(E)
23 of a family-owned corporation or an S
24 corporation.”.

1 (4) Subsection (a) of section 1373 is amended
2 by striking “and” at the end of paragraph (1), by
3 striking the period at the end of paragraph (2) and
4 inserting “, and”, and by adding at the end the fol-
5 lowing new paragraph:

6 “(3) no amount of an expense deductible under
7 this subchapter by reason of section 1361(h)(3) shall
8 be apportioned or allocated to the income referred to
9 in such section.”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 December 31, 2011.

13 **SEC. 503. IRA SHAREHOLDERS.**

14 Clause (vi) of section 1361(c)(2)(A) of the Internal
15 Revenue Code of 1986 is amended by striking “as of the
16 date of enactment of this clause”.

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