

114TH CONGRESS  
2D SESSION

# S. 2648

To assist entrepreneurs, support development of the creative economy, and encourage international cultural exchange, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 8, 2016

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

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## A BILL

To assist entrepreneurs, support development of the creative economy, and encourage international cultural exchange, 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       “Comprehensive Resources for Entrepreneurs in the Arts  
6       to Transform the Economy Act of 2016” or the “CRE-  
7       ATE Act of 2016”.

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

Sec. 1. Short title; table of contents.

## TITLE I—SUPPORT FOR ARTISTS AND ENTREPRENEURS

- Sec. 101. Charitable contributions of certain items created by the taxpayer.
- Sec. 102. Microloan program expansion.
- Sec. 103. SBA business loans for the creative economy.
- Sec. 104. SBA technical assistance programs.
- Sec. 105. Arts-focused economic development.
- Sec. 106. Arts-focused rural development.
- Sec. 107. Expedited adjudication of employer petitions for aliens of extraordinary artistic ability.
- Sec. 108. Disaster support for artists through FEMA.

## TITLE II—SUPPORT FOR THE CREATIVE ECONOMY

- Sec. 201. Modification of rules for charitable contributions of fractional gifts.
- Sec. 202. Capital gains tax rate relating to art.

## TITLE III—CREATIVE COMMUNITY DEVELOPMENT

- Sec. 301. Artist corps.
- Sec. 302. Community development entities focused on the arts for purposes of the new markets tax credit.
- Sec. 303. Demonstration program on support of local programs that promote creative and performance arts in local economic planning.
- Sec. 304. Clarification of jurisdictional immunity for cultural objects of foreign states.

1 **TITLE I—SUPPORT FOR ARTISTS**  
 2 **AND ENTREPRENEURS**

3 **SEC. 101. CHARITABLE CONTRIBUTIONS OF CERTAIN**  
 4 **ITEMS CREATED BY THE TAXPAYER.**

5 (a) IN GENERAL.—Subsection (e) of section 170 of  
 6 the Internal Revenue Code of 1986 is amended by adding  
 7 at the end the following new paragraph:

8 “(8) SPECIAL RULE FOR CERTAIN CONTRIBU-  
 9 TIONS OF LITERARY, MUSICAL, OR ARTISTIC COM-  
 10 POSITIONS.—

11 “(A) IN GENERAL.—In the case of a quali-  
 12 fied artistic charitable contribution—

13 “(i) the amount of such contribution  
 14 shall be the fair market value of the prop-

1           erty contributed (determined at the time of  
2           such contribution), and

3           “(ii) no reduction in the amount of  
4           such contribution shall be made under  
5           paragraph (1).

6           “(B) QUALIFIED ARTISTIC CHARITABLE  
7           CONTRIBUTION.—For purposes of this para-  
8           graph, the term ‘qualified artistic charitable  
9           contribution’ means a charitable contribution of  
10          any literary, musical, artistic, or scholarly com-  
11          position, or similar property, or the copyright  
12          thereon (or both), but only if—

13           “(i) such property was created by the  
14           personal efforts of the taxpayer making  
15           such contribution no less than 18 months  
16           prior to such contribution,

17           “(ii) the taxpayer—

18           “(I) has received a qualified ap-  
19           praisal of the fair market value of  
20           such property in accordance with the  
21           regulations under this section, and

22           “(II) attaches to the taxpayer’s  
23           income tax return for the taxable year  
24           in which such contribution was made  
25           a copy of such appraisal,

1           “(iii) the donee is an organization de-  
2           scribed in subsection (b)(1)(A),

3           “(iv) the use of such property by the  
4           donee is related to the purpose or function  
5           constituting the basis for the donee’s ex-  
6           emption under section 501 (or, in the case  
7           of a governmental unit, to any purpose or  
8           function described under subsection (c)),

9           “(v) the taxpayer receives from the  
10          donee a written statement representing  
11          that the donee’s use of the property will be  
12          in accordance with the provisions of clause  
13          (iv), and

14          “(vi) the written appraisal referred to  
15          in clause (ii) includes evidence of the ex-  
16          tent (if any) to which property created by  
17          the personal efforts of the taxpayer and of  
18          the same type as the donated property is  
19          or has been—

20                 “(I) owned, maintained, and dis-  
21                 played by organizations described in  
22                 subsection (b)(1)(A), and

23                 “(II) sold to or exchanged by  
24                 persons other than the taxpayer,

1 donee, or any related person (as de-  
2 fined in section 465(b)(3)(C)).

3 “(C) MAXIMUM DOLLAR LIMITATION; NO  
4 CARRYOVER OF INCREASED DEDUCTION.—The  
5 increase in the deduction under this section by  
6 reason of this paragraph for any taxable year—

7 “(i) shall not exceed the artistic ad-  
8 justed gross income of the taxpayer for  
9 such taxable year, and

10 “(ii) shall not be taken into account in  
11 determining the amount which may be car-  
12 ried from such taxable year under sub-  
13 section (d).

14 “(D) ARTISTIC ADJUSTED GROSS IN-  
15 COME.—For purposes of this paragraph, the  
16 term ‘artistic adjusted gross income’ means  
17 that portion of the adjusted gross income of the  
18 taxpayer for the taxable year attributable to—

19 “(i) income from the sale or use of  
20 property created by the personal efforts of  
21 the taxpayer which is of the same type as  
22 the donated property, and

23 “(ii) income from teaching, lecturing,  
24 performing, or similar activity with respect  
25 to property described in clause (i).

1           “(E) PARAGRAPH NOT TO APPLY TO CER-  
2           TAIN CONTRIBUTIONS.—Subparagraph (A) shall  
3           not apply to any charitable contribution of any  
4           letter, memorandum, or similar property which  
5           was written, prepared, or produced by or for an  
6           individual while the individual is an officer or  
7           employee of any person (including any govern-  
8           ment agency or instrumentality) unless such  
9           letter, memorandum, or similar property is en-  
10          tirely personal.

11           “(F) COPYRIGHT TREATED AS SEPARATE  
12          PROPERTY FOR PARTIAL INTEREST RULE.—In  
13          the case of a qualified artistic charitable con-  
14          tribution, the tangible literary, musical, artistic,  
15          or scholarly composition, or similar property  
16          and the copyright on such work shall be treated  
17          as separate properties for purposes of this para-  
18          graph and subsection (f)(3).”.

19          (b) EFFECTIVE DATE.—The amendment made by  
20          this section shall apply to contributions made after the  
21          date of the enactment of this Act in taxable years ending  
22          after such date.

1 **SEC. 102. MICROLOAN PROGRAM EXPANSION.**

2 Section 7(m)(6) of the Small Business Act (15  
3 U.S.C. 636(m)(6)) is amended by adding at the end the  
4 following:

5 “(F) LOAN CRITERIA FOR ARTISTS AND  
6 ARTS ENTREPRENEURS.—The Administration,  
7 in consultation with eligible intermediaries,  
8 shall develop loan criteria to ensure that small  
9 business concerns owned and controlled by art-  
10 ists and small business concerns that support  
11 the creative economy receive loan proceeds  
12 under this subsection.”.

13 **SEC. 103. SBA BUSINESS LOANS FOR THE CREATIVE ECON-**  
14 **OMY.**

15 Section 7(a) of the Small Business Act (15 U.S.C.  
16 636(a)) is amended by adding at the end the following:

17 “(35) CREATIVE ECONOMY.—In providing as-  
18 sistance under this subsection, the Administration  
19 shall develop procedures to evaluate the business  
20 proposals and business plans of small business con-  
21 cerns that focus on economic development, job cre-  
22 ation, and community growth with respect to the  
23 creative economy.”.

24 **SEC. 104. SBA TECHNICAL ASSISTANCE PROGRAMS.**

25 Section 21 of the Small Business Act (15 U.S.C. 648)  
26 is amended by adding at the end the following:

1       “(n) TECHNICAL ASSISTANCE PROGRAMS FOR ART-  
 2       ISTS AND ARTS ENTREPRENEURS.—The Administration,  
 3       in consultation with relevant stakeholders, shall develop  
 4       technical assistance programs to be carried out by small  
 5       business development centers under this subsection that  
 6       target the specific needs of artists and arts entre-  
 7       preneurs.”.

8       **SEC. 105. ARTS-FOCUSED ECONOMIC DEVELOPMENT.**

9       Title II of the Public Works and Economic Develop-  
 10      ment Act of 1965 (42 U.S.C. 3141 et seq.) is amended  
 11      by adding at the end the following:

12      **“SEC. 219. ARTS-FOCUSED ECONOMIC DEVELOPMENT.**

13      “(a) DEFINITIONS.—In this section:

14              “(1) BUSINESS INCUBATION PROGRAM.—The  
 15      term ‘business incubation program’ means a pro-  
 16      gram that—

17                      “(A) accelerates the successful develop-  
 18      ment of entrepreneurial businesses through  
 19      business support resources and services, devel-  
 20      oped or orchestrated by incubator management;

21                      “(B) is designed to produce successful  
 22      businesses; and

23                      “(C) provides management guidance, tech-  
 24      nical assistance, and consulting designed for



1 young, growing businesses, including by pro-  
2 viding—

3 “(i) rental space and flexible leases;

4 “(ii) shared basic business services  
5 and equipment;

6 “(iii) technology support services; and

7 “(iv) assistance in obtaining financing  
8 necessary for growth of the business.

9 “(2) INCUBATOR.—The term ‘incubator’ means  
10 a multitenant facility with on-site management that  
11 directs a business incubation program.

12 “(b) ARTS-FOCUSED ECONOMIC DEVELOPMENT.—In  
13 providing grants and assistance under this Act (including  
14 through the local technical assistance, partnership plan-  
15 ning, and comprehensive economic development strategies  
16 programs of the Economic Development Administration),  
17 the Secretary shall provide to artists and the creative  
18 economy support through traditional economic develop-  
19 ment tools, including—

20 “(1) incubators; and

21 “(2) economic development planning and tech-  
22 nical assistance.”.

1 **SEC. 106. ARTS-FOCUSED RURAL DEVELOPMENT.**

2 The Consolidated Farm and Rural Development Act  
3 (7 U.S.C. 1921 et seq.) is amended by adding at the end  
4 the following:

5 **“Subtitle J—Arts-Focused**  
6 **Economic Development**

7 **“SEC. 386A. ARTS-FOCUSED ECONOMIC DEVELOPMENT.**

8 “(a) DEFINITIONS.—In this section:

9 “(1) BUSINESS INCUBATION PROGRAM.—The  
10 term ‘business incubation program’ means a pro-  
11 gram that—

12 “(A) accelerates the successful develop-  
13 ment of entrepreneurial businesses through  
14 business support resources and services, devel-  
15 oped or orchestrated by incubator management;

16 “(B) is designed to produce successful  
17 businesses; and

18 “(C) provides management guidance, tech-  
19 nical assistance, and consulting designed for  
20 young, growing businesses, including by pro-  
21 viding—

22 “(i) rental space and flexible leases;

23 “(ii) shared basic business services  
24 and equipment;

25 “(iii) technology support services; and

1                   “(iv) assistance in obtaining financing  
2                   necessary for growth of the business.

3                   “(2) INCUBATOR.—The term ‘incubator’ means  
4                   a multitenant facility with on-site management that  
5                   directs a business incubation program.

6                   “(b) ARTS-FOCUSED ECONOMIC DEVELOPMENT.—In  
7                   providing grants and assistance under this Act (including  
8                   through the local technical assistance, partnership plan-  
9                   ning, and comprehensive economic development strategies  
10                  programs of the Office of Rural Development), the Sec-  
11                  retary, acting through the Under Secretary for Rural De-  
12                  velopment, shall provide to artists and the creative econ-  
13                  omy support through traditional economic development  
14                  tools, including—

15                         “(1) incubators; and

16                         “(2) economic development planning and tech-  
17                         nical assistance.”.

18   **SEC. 107. EXPEDITED ADJUDICATION OF EMPLOYER PETI-**  
19                                 **TIONS FOR ALIENS OF EXTRAORDINARY AR-**  
20                                 **TISTIC ABILITY.**

21                   Section 214(c)(6)(D) of the Immigration and Nation-  
22                   ality Act (8 U.S.C. 1184(c)(6)(D)) is amended—

23                         (1) in the first sentence, by inserting “(i)” be-  
24                         fore “Any person”;

25                         (2) in the second sentence—

1 (A) by striking “Once” and inserting “Ex-  
2 cept as provided in clause (ii), once”; and

3 (B) by striking “Attorney General shall”  
4 and inserting “Secretary of Homeland Security  
5 shall”;

6 (3) in the third sentence, by striking “The At-  
7 torney General” and inserting “The Secretary”; and

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

9 “(ii) The Secretary of Homeland Security shall adju-  
10 dicate each petition for an alien with extraordinary ability  
11 in the arts (as described in clause (i) of section  
12 101(a)(15)(O)), an alien accompanying such an alien (as  
13 described in clause (ii) or (iii) of such section), or an alien  
14 described in section 101(a)(15)(P) (other than an alien  
15 described in section 214(c)(4)(A) (relating to athletes))  
16 not later than 30 days after—

17 “(I) the date on which the petitioner submits  
18 the petition with a written advisory opinion, letter of  
19 no objection, or request for a waiver; or

20 “(II) the date on which the 15-day period de-  
21 scribed in clause (i) has expired, if the petitioner has  
22 had an opportunity, as appropriate, to supply rebut-  
23 tal evidence.

24 “(iii) If a petition described in clause (ii) is not adju-  
25 dicated before the end of the 30-day period described in

1 clause (ii) and the petitioner is an arts organization de-  
2 scribed in paragraph (3), (5), or (6) of section 501(c) of  
3 the Internal Revenue Code of 1986 and exempt from tax  
4 under section 501(a) of such Code for the taxable year  
5 preceding the calendar year in which the petition is sub-  
6 mitted, or an individual or entity petitioning primarily on  
7 behalf of such an organization, the Secretary of Homeland  
8 Security shall provide the petitioner with the premium-  
9 processing services referred to in section 286(u), without  
10 a fee.”.

11 **SEC. 108. DISASTER SUPPORT FOR ARTISTS THROUGH**  
12 **FEMA.**

13 (a) IN GENERAL.—The President, acting through the  
14 Administrator of the Federal Emergency Management  
15 Agency, shall promulgate rules to ensure that expenses in-  
16 curred, as a result of a major disaster or emergency, by  
17 a self-employed or freelance worker, including a craft art-  
18 ist, fine artist, designer, literary artist, performing artist,  
19 or musician, to repair or replace tools needed by the self-  
20 employed or freelance worker are considered eligible ex-  
21 penses for assistance under section 408 of the Robert T.  
22 Stafford Disaster Relief and Emergency Assistance Act  
23 (42 U.S.C. 5174).

24 (b) REQUIREMENT.—The rules promulgated under  
25 subsection (a) may not require, as a condition of receiving

1 such assistance under section 408 of the Robert T. Staf-  
 2 ford Disaster Relief and Emergency Assistance Act (42  
 3 U.S.C. 5174), an applicant—

4 (1) to apply or be declined for assistance from  
 5 the Small Business Administration; or

6 (2) to demonstrate that assistance received  
 7 from the Small Business Administration does not  
 8 satisfy the total necessary expenses or serious needs  
 9 arising out of a major disaster or emergency.

10 **TITLE II—SUPPORT FOR THE**  
 11 **CREATIVE ECONOMY**

12 **SEC. 201. MODIFICATION OF RULES FOR CHARITABLE CON-**  
 13 **TRIBUTIONS OF FRACTIONAL GIFTS.**

14 (a) INCOME TAX.—

15 (1) ADDITIONAL REQUIREMENTS FOR DEDUC-  
 16 TION.—Paragraph (1) of section 170(o) of the Inter-  
 17 nal Revenue Code of 1986 is amended to read as fol-  
 18 lows:

19 “(1) DENIAL OF DEDUCTION IN CERTAIN  
 20 CASES.—

21 “(A) IN GENERAL.—No deduction shall be  
 22 allowed for a contribution of an undivided por-  
 23 tion of a taxpayer’s entire interest in tangible  
 24 personal property unless—

1           “(i) all interests in the property are  
2 held immediately before such contribution  
3 by—

4                   “(I) the taxpayer, or

5                   “(II) the taxpayer and the donee,

6           “(ii) in the case of an initial fractional  
7 contribution, such contribution is an undi-  
8 vided portion of not less than 10 percent  
9 of all interests in the property,

10           “(iii) in the case of an initial frac-  
11 tional contribution, the contribution is  
12 made pursuant to a written binding con-  
13 tract which requires the donor—

14                   “(I) to contribute not less than  
15 20 percent of all interests in the prop-  
16 erty on or before the date that is 11  
17 years after the date of the initial frac-  
18 tional contribution, and

19                   “(II) to contribute all of the in-  
20 terests in such property to the donee  
21 (or if such donee is no longer in exist-  
22 ence, to any person described in sub-  
23 section (c)) on or before the earlier of  
24 the date of the death of the donor or  
25 the date which is 20 years after the

1 date of the initial fractional contribu-  
2 tion, and

3 “(iv) if the value of the tangible per-  
4 sonal property with respect to which the  
5 undivided portion of the taxpayer’s entire  
6 interest relates is greater than \$1,000,000  
7 (or such greater amount as determined by  
8 the Secretary), the taxpayer attaches to  
9 the return for the taxable year in which  
10 such contribution is made a statement of  
11 value obtained from the Internal Revenue  
12 Service.

13 In the case of a donor who dies before the date  
14 which is 20 years after the date of the initial  
15 fractional contribution, clause (iii)(II) is satis-  
16 fied with respect to such initial fractional con-  
17 tribution if the donor’s will specifies that all of  
18 the interests in such property will be contrib-  
19 uted to the donee before such date.

20 “(B) EXCEPTIONS.—The Secretary may,  
21 by regulation, provide for exceptions to sub-  
22 paragraph (A)(i) in cases where all persons who  
23 hold an interest in the property make propor-  
24 tional contributions of an undivided portion of  
25 the entire interest held by such persons. Such



1 regulations may modify the requirements of  
2 clauses (ii) and (iii) of subparagraph (A) to the  
3 extent necessary to carry out the purposes of  
4 this subparagraph.”.

5 (2) VALUATION OF SUBSEQUENT GIFTS.—Para-  
6 graph (2) of section 170(o) of such Code is amended  
7 to read as follows:

8 “(2) VALUATION OF SUBSEQUENT GIFTS.—In  
9 the case of any additional contribution, the fair mar-  
10 ket value of such contribution shall be determined by  
11 using a certified appraisal from the Art Advisory  
12 Panel of the Commissioner of Internal Revenue.”.

13 (3) RECAPTURE OF DEDUCTION.—Paragraph  
14 (3) of section 170(o) of such Code is amended—

15 (A) by redesignating subparagraph (B) as  
16 subparagraph (C), and

17 (B) by striking subparagraph (A) and in-  
18 serting the following:

19 “(A) RECAPTURE.—The Secretary shall  
20 provide for the recapture of the amount of any  
21 deduction allowed under this section (plus inter-  
22 est) with respect to any contribution of an undi-  
23 vided portion of a taxpayer’s entire interest in  
24 tangible personal property—

1           “(i) in any case in which the donor  
2 fails to meet the requirements described in  
3 paragraph (1)(A)(iii), and

4           “(ii) in any case where such property  
5 is not in the physical possession of the  
6 donee (other than in the case of art which  
7 is fragile or unwieldy) and used in a use  
8 which is related to a purpose or function  
9 constituting the basis for the donee organi-  
10 zation’s exemption under section 501 dur-  
11 ing any applicable period for a period of  
12 time which bears substantially the same  
13 ratio to 5 years as—

14           “(I) the percentage of the undi-  
15 vided interest of the donee in the  
16 property (determined on the day after  
17 such contribution was made), bears to

18           “(II) 100 percent.

19           “(B) APPLICABLE PERIOD.—For purposes  
20 of subparagraph (A), the applicable period  
21 means—

22           “(i) the 5-year period beginning on  
23 the date of the later of the initial fractional  
24 contribution, and

1           “(ii) each subsequent 5-year period  
2           occurring during the 20-year period de-  
3           scribed in paragraph (1)(A)(iii)(II).”.

4       (b) GIFT TAX.—

5           (1) ADDITIONAL REQUIREMENTS FOR DEDUC-  
6           TION.—Paragraph (1) of section 2522(e) of the In-  
7           ternal Revenue Code of 1986 is amended to read as  
8           follows:

9           “(1) DENIAL OF DEDUCTION IN CERTAIN  
10          CASES.—

11           “(A) IN GENERAL.—No deduction shall be  
12           allowed for a contribution of an undivided por-  
13           tion of a taxpayer’s entire interest in tangible  
14           personal property unless—

15           “(i) all interests in the property are  
16           held immediately before such contribution  
17           by—

18                   “(I) the taxpayer, or

19                   “(II) the taxpayer and the donee,

20           “(ii) in the case of an initial fractional  
21           contribution, such contribution is an undi-  
22           vided portion of not less than 10 percent  
23           of all interests in the property,

24           “(iii) in the case of an initial frac-  
25           tional contribution, the contribution is

1 made pursuant to a written binding con-  
2 tract which requires the donor—

3 “(I) to contribute not less than  
4 20 percent of all interests in the prop-  
5 erty on or before the date that is 11  
6 years after the date of the initial frac-  
7 tional contribution, and

8 “(II) to contribute all of the in-  
9 terests in such property to the donee  
10 (or if such donee is no longer in exist-  
11 ence, to any person described in sub-  
12 section (c)) on or before the earlier of  
13 the date of the death of the donor or  
14 the date which is 20 years after the  
15 date of the initial fractional contribu-  
16 tion, and

17 “(iv) if the value of the tangible per-  
18 sonal property with respect to which the  
19 undivided portion of the taxpayer’s entire  
20 interest relates is greater than \$1,000,000  
21 (or such greater amount as determined by  
22 the Secretary), the taxpayer attaches to  
23 the return for the taxable year in which  
24 such contribution is made a statement of

1 value obtained from the Internal Revenue  
2 Service.

3 In the case of a donor who dies before the date  
4 which is 20 years after the date of the initial  
5 fractional contribution, clause (iii)(II) is satis-  
6 fied with respect to such initial fractional con-  
7 tribution if the donor's will specifies that all of  
8 the interests in such property will be contrib-  
9 uted to the donee before such date.

10 “(B) EXCEPTIONS.—The Secretary may,  
11 by regulation, provide for exceptions to sub-  
12 paragraph (A)(i) in cases where all persons who  
13 hold an interest in the property make propor-  
14 tional contributions of an undivided portion of  
15 the entire interest held by such persons. Such  
16 regulations may modify the requirements of  
17 clauses (ii) and (iii) of subparagraph (A) to the  
18 extent necessary to carry out the purposes of  
19 this subparagraph.”.

20 (2) RECAPTURE OF DEDUCTION.—Paragraph  
21 (2) of section 2522(e) of such Code is amended—

22 (A) by redesignating subparagraphs (B)  
23 and (C) as subparagraphs (C) and (D), respec-  
24 tively, and

1 (B) by striking subparagraph (A) and in-  
2 serting the following:

3 “(A) RECAPTURE.—The Secretary shall  
4 provide for the recapture of the amount of any  
5 deduction allowed under this section (plus inter-  
6 est) with respect to any contribution of an undi-  
7 vided portion of a taxpayer’s entire interest in  
8 tangible personal property—

9 “(i) in any case in which the donor  
10 fails to meet the requirements described in  
11 paragraph (1)(A)(iii), and

12 “(ii) in any case where such property  
13 is not in the physical possession of the  
14 donee (other than in the case of art which  
15 is fragile or unwieldy) and used in a use  
16 which is related to a purpose or function  
17 constituting the basis for the donee organi-  
18 zation’s exemption under section 501 dur-  
19 ing any applicable period for a period of  
20 time which bears substantially the same  
21 ratio to 5 years as—

22 “(I) the percentage of the undi-  
23 vided interest of the donee in the  
24 property (determined on the day after  
25 such contribution was made), bears to

1 “(II) 100 percent.

2 “(B) APPLICABLE PERIOD.—For purposes  
3 of subparagraph (A), the applicable period  
4 means—

5 “(i) the 5-year period beginning on  
6 the date of the later of the initial fractional  
7 contribution, and

8 “(ii) each subsequent 5-year period  
9 occurring during the 20-year period de-  
10 scribed in paragraph (1)(A)(iii)(II).”.

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

14 (d) TRANSITION RULE.—In the case of any addi-  
15 tional contribution (as defined in section 170(o)(4) of the  
16 Internal Revenue Code of 1986) with respect to an initial  
17 fractional contribution (as defined in such section) made  
18 after August 17, 2006, and before the date of the enact-  
19 ment of this Act—

20 (1) except for purposes of determining the fair  
21 market value of such contribution under section  
22 170(o)(2) of the Internal Revenue Code of 1986 (as  
23 amended by this Act), such contribution shall be  
24 treated as an initial fractional contribution (as so

1 defined) subject to the amendments made by this  
 2 section, and

3 (2) sections 170(o)(3)(A)(i) and  
 4 2522(e)(3)(A)(i) of such Code (as in effect before  
 5 the date of the enactment of this Act) shall not  
 6 apply with respect to any prior contribution of an  
 7 undivided portion of the taxpayer's interest in the  
 8 property.

9 **SEC. 202. CAPITAL GAINS TAX RATE RELATING TO ART.**

10 (a) EXCLUSION FROM 28-PERCENT RATE GAIN.—  
 11 Subparagraph (A) of section 1(h)(5) of the Internal Rev-  
 12 enue Code of 1986 is amended by striking “paragraph  
 13 (3)” and inserting “paragraph (2)(A) or (3)”.

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

17 **TITLE III—CREATIVE**  
 18 **COMMUNITY DEVELOPMENT**

19 **SEC. 301. ARTIST CORPS.**

20 (a) CORPS.—Section 122(a) of the National and  
 21 Community Service Act of 1990 (42 U.S.C. 12572(a)) is  
 22 amended by adding at the end the following:

23 “(6) ARTIST CORPS.—

24 “(A) IN GENERAL.—The recipient may  
 25 carry out national service programs through an



1 Artist Corps that identifies and meets unmet  
2 needs within communities through artistic ac-  
3 tivities such as those described in subparagraph  
4 (B) and improves performance on the indicators  
5 described in subparagraph (C).

6 “(B) ACTIVITIES.—An Artist Corps de-  
7 scribed in this paragraph may carry out activi-  
8 ties such as—

9 “(i) providing skilled visual and per-  
10 formance artists to address community  
11 needs through artistic activities in edu-  
12 cation, health care, and therapeutic set-  
13 tings, and in other settings in the commu-  
14 nity; or

15 “(ii) providing other artistic activities,  
16 addressing unmet community needs, that  
17 the Corporation may designate.

18 “(C) ARTIST CORPS INDICATORS.—The in-  
19 dicators for a corps program described in this  
20 paragraph are—

21 “(i) any indicator relating to meeting  
22 critical needs that the Corporation estab-  
23 lishes; or

24 “(ii) any local indicator (applicable to  
25 a particular recipient or community and on

1           which an improvement in performance is  
2           needed) relating to meeting critical needs,  
3           that is approved by the Corporation or a  
4           State Commission.”.

5           (b) CONFORMING AMENDMENTS.—Section 122 of  
6 such Act is amended—

7           (1) in subsection (b)(3), by striking “or (5)”  
8           and inserting “(5), or (6)”; and

9           (2) in subsection (c)(1), in the matter preceding  
10          subparagraph (A), by striking “through (5)” and in-  
11          serting “through (6)”.

12 **SEC. 302. COMMUNITY DEVELOPMENT ENTITIES FOCUSED**  
13                   **ON THE ARTS FOR PURPOSES OF THE NEW**  
14                   **MARKETS TAX CREDIT.**

15          (a) IN GENERAL.—Not later than 1 year after the  
16 date of the enactment of this Act, the Secretary of the  
17 Treasury shall develop and promulgate guidelines for the  
18 creation and operation of qualified community develop-  
19 ment entities—

20           (1) which will be eligible to be certified as such  
21           by the Secretary of the Treasury under section  
22           45D(c)(1)(C) of the Internal Revenue Code of 1986;

23           (2) a qualified equity investment in which will,  
24           subject to allocation under section 45D(f) of such

1 Code, be eligible for the credit under such section  
2 45D; and

3 (3) which will focus on investment in and the  
4 development and encouragement of the creative  
5 economy in low-income communities.

6 (b) DEFINITIONS.—For purposes of this section, any  
7 term used in subsection (a) which is also used in section  
8 45D of the Internal Revenue Code of 1986 has the same  
9 meaning as when used in such section.

10 **SEC. 303. DEMONSTRATION PROGRAM ON SUPPORT OF**  
11 **LOCAL PROGRAMS THAT PROMOTE CRE-**  
12 **ATIVE AND PERFORMANCE ARTS IN LOCAL**  
13 **ECONOMIC PLANNING.**

14 (a) DEMONSTRATION PROGRAM REQUIRED.—The  
15 Secretary of Commerce shall establish a demonstration  
16 program to assess the feasibility and advisability of pro-  
17 viding support to covered programs to promote creative  
18 and performing arts in the economic planning of local gov-  
19 ernments.

20 (b) COVERED PROGRAMS.—For purposes of the dem-  
21 onstration program required by subsection (a), a covered  
22 program is any program that—

23 (1) was in effect on the day before the date of  
24 the enactment of this Act; and

1           (2) the Secretary considers part of an art com-  
2           munity.

3 **SEC. 304. CLARIFICATION OF JURISDICTIONAL IMMUNITY**  
4           **FOR CULTURAL OBJECTS OF FOREIGN**  
5           **STATES.**

6           (a) IN GENERAL.—Section 1605 of title 28, United  
7 States Code, is amended by adding at the end the fol-  
8 lowing:

9           “(h) JURISDICTIONAL IMMUNITY FOR CERTAIN ART  
10 EXHIBITION ACTIVITIES.—

11           “(1) IN GENERAL.—If—

12           “(A) a work is imported into the United  
13 States from any foreign country pursuant to an  
14 agreement that provides for the temporary exhi-  
15 bition or display of such work entered into be-  
16 tween a foreign state that is the owner or cus-  
17 todian of such work and the United States or  
18 one or more cultural or educational institutions  
19 within the United States;

20           “(B) the President, or the President’s des-  
21 ignee, has determined, in accordance with sub-  
22 section (a) of Public Law 89–259 (22 U.S.C.  
23 2459(a)), that such work is of cultural signifi-  
24 cance and the temporary exhibition or display  
25 of such work is in the national interest; and

1           “(C) the notice thereof has been published  
2           in accordance with subsection (a) of Public Law  
3           89–259 (22 U.S.C. 2459(a)),  
4           any activity in the United States of such foreign  
5           state, or of any carrier, that is associated with the  
6           temporary exhibition or display of such work shall  
7           not be considered to be commercial activity by such  
8           foreign state for purposes of subsection (a)(3).

9           “(2) NAZI-ERA CLAIMS.—Paragraph (1) shall  
10          not apply in any case asserting jurisdiction under  
11          subsection (a)(3) in which rights in property taken  
12          in violation of international law are in issue within  
13          the meaning of that subsection and—

14                 “(A) the property at issue is the work de-  
15                 scribed in paragraph (1);

16                 “(B) the action is based upon a claim that  
17                 such work was taken in connection with the  
18                 acts of a covered government during the cov-  
19                 ered period;

20                 “(C) the court determines that the activity  
21                 associated with the exhibition or display is com-  
22                 mercial activity, as that term is defined in sec-  
23                 tion 1603(d); and

24                 “(D) a determination under subparagraph  
25                 (C) is necessary for the court to exercise juris-

1           diction over the foreign state under subsection  
2           (a)(3).

3           “(3) DEFINITIONS.—For purposes of this sub-  
4           section—

5                   “(A) the term ‘work’ means a work of art  
6                   or other object of cultural significance;

7                   “(B) the term ‘covered government’  
8                   means—

9                           “(i) the Government of Germany dur-  
10                           ing the covered period;

11                           “(ii) any government in any area in  
12                           Europe that was occupied by the military  
13                           forces of the Government of Germany dur-  
14                           ing the covered period;

15                           “(iii) any government in Europe that  
16                           was established with the assistance or co-  
17                           operation of the Government of Germany  
18                           during the covered period; and

19                           “(iv) any government in Europe that  
20                           was an ally of the Government of Germany  
21                           during the covered period; and

22                   “(C) the term ‘covered period’ means the  
23                   period beginning on January 30, 1933, and  
24                   ending on May 8, 1945.”.

1       (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to any civil action commenced on  
3 or after the date of the enactment of this Act.

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