

109TH CONGRESS
2D SESSION

S. 3827

To amend the Internal Revenue Code of 1986 to extend and expand the benefits for businesses operating in empowerment zones, enterprise communities, or renewal communities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 3, 2006

Mrs. LINCOLN (for herself, Ms. SNOWE, Mr. SCHUMER, Mr. ROCKEFELLER, Ms. LANDRIEU, Mrs. CLINTON, and Mr. VITTER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to extend and expand the benefits for businesses operating in empowerment zones, enterprise communities, or renewal communities, 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.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Empowerment Zone and Renewal Community Enhance-
6 ment Act of 2006”.

1 (b) AMENDMENT OF 1986 CODE.—Except as other-
 2 wise expressly provided, whenever in this Act an amend-
 3 ment or repeal is expressed in terms of an amendment
 4 to, or repeal of, a section or other provision, the reference
 5 shall be considered to be made to a section or other provi-
 6 sion of the Internal Revenue Code of 1986.

7 **SEC. 2. EXTENSION OF BENEFITS.**

8 (a) EMPOWERMENT ZONES AND ENTERPRISE COM-
 9 MUNITIES.—

10 (1) ROUNDS I AND II DESIGNATIONS.—Sub-
 11 section (d)(1)(A)(i) of section 1391 is amended—

12 (A) by striking “December 31, 2009” and
 13 inserting “December 31, 2015”, and

14 (B) by adding at the end the following new
 15 flush sentence:

16 “For purposes of section 1396, subparagraph (A)
 17 shall be applied by substituting ‘December 31, 2009’
 18 for ‘December 31, 2015’ in the case of designations
 19 made under subsection (a).”.

20 (2) ROUND III DESIGNATIONS.—Subsection
 21 (h)(2) of section 1391 is amended by striking “De-
 22 cember 31, 2009” and inserting “December 31,
 23 2015”.

24 (b) RENEWAL COMMUNITIES.—

1 (1) Sections 1400E(b) and 1400I(g) are each
 2 amended by striking “December 31, 2009” and in-
 3 serting “December 31, 2015”.

4 (2) Sections 1400E(b)(3), 1400F(b), and
 5 1400J(b) are each amended by striking “January 1,
 6 2010” and inserting “January 1, 2016”.

7 (3) Section 1400F(d) is amended—

8 (A) by striking “December 31, 2010” and
 9 inserting “December 31, 2016”, and

10 (B) by striking “December 31, 2014” and
 11 inserting “December 31, 2020”.

12 (4) Section 1400I(d)(2)(A) is amended by strik-
 13 ing “2010” and inserting “2016”.

14 **SEC. 3. REVISION OF BENEFITS.**

15 (a) SAFE HARBOR FOR MEETING REQUIREMENT
 16 THAT 35 PERCENT OF EMPLOYEES BE RESIDENTS OF
 17 ZONE.—Paragraph (2) of section 1394(b) (defining enter-
 18 prise zone facility) is amended by adding at the end the
 19 following new subparagraph:

20 “(D) ADDITIONAL SAFE HARBOR FOR
 21 MEETING REQUIREMENT THAT 35 PERCENT OF
 22 EMPLOYEES BE RESIDENTS OF ZONE.—The re-
 23 quirements of subsections (b)(6) and (c)(7) of
 24 section 1397C shall not fail to be treated as

1 met for any period with respect to a qualified
2 business if—

3 “(i) as of the date of issuance of the
4 issue, it is reasonably expected that within
5 3 years after such date the business will
6 increase employment by at least the lesser
7 of—

8 “(I)(aa) 500 full-time employees
9 in the case of a business located in a
10 renewal community or in a rural area
11 (as defined in section 1393(a)(2)) in
12 an empowerment zone or enterprise
13 community, or

14 “(bb) 1,000 full-time employees
15 in the case of a business located out-
16 side a rural area (as so defined) in an
17 empowerment zone or enterprise com-
18 munity, or

19 “(II) 10 percent of the number
20 of full-time employees estimated to
21 have been employed in such zone or
22 community on the date of its designa-
23 tion,

24 “(ii) as of the date of issuance of the
25 issue, it is reasonably expected that as a

1 result of the bonds the business will in-
 2 crease employment by at least one job for
 3 each \$150,000 in face amount of the issue,
 4 “(iii) at any time within 3 years after
 5 the date of issuance of the issue, the re-
 6 quirements of such subsections are met, or
 7 “(iv) the business enters into a bind-
 8 ing agreement with the appropriate local
 9 government employment agency to apply a
 10 first source rule to advertise and prioritize
 11 employment opportunities with such busi-
 12 ness for qualified residents of such zone or
 13 community.”.

14 (b) ELIGIBILITY OF BUSINESSES DEVELOPING OR
 15 HOLDING INTANGIBLES.—Paragraph (4) of section
 16 1397C(d) is amended by inserting before the period “un-
 17 less the intangibles are developed within the empowerment
 18 zone”.

19 (c) REDUCED WAGE CREDIT ALLOWABLE FOR ZONE
 20 RESIDENTS EMPLOYED OUTSIDE THE ZONE; EMPLOYEES
 21 NEED NOT BE RESIDENTS OF ZONE IN WHICH EM-
 22 PLOYED.—

23 (1) IN GENERAL.—Subsection (b) of section
 24 1396 is amended to read as follows:

25 “(b) APPLICABLE PERCENTAGE.—

1 “(1) QUALIFIED ZONE EMPLOYEES WHO PER-
 2 FORM SUBSTANTIALLY ALL OF THEIR SERVICES IN
 3 AN EMPOWERMENT ZONE.—The applicable percent-
 4 age is 20 percent with respect to qualified zone em-
 5 ployees who would meet the requirement of sub-
 6 section (d)(1) if only services performed within an
 7 empowerment zone were taken into account.

8 “(2) OTHER QUALIFIED ZONE EMPLOYEES.—

9 “(A) IN GENERAL.—The applicable per-
 10 centage is—

11 “(i) 20 percent in the case of des-
 12 ignated qualified zone employees of em-
 13 ployers which are enterprise zone busi-
 14 nesses, and

15 “(ii) 10 percent in the case of any
 16 other designated qualified zone employee.

17 “(B) LIMITATIONS ON NUMBER OF DES-
 18 IGNATED EMPLOYEES.—

19 “(i) IN GENERAL.—For purposes of
 20 subparagraph (A), the term ‘designated
 21 qualified zone employee’ means a qualified
 22 zone employee—

23 “(I) to whom paragraph (1) does
 24 not apply, and

1 “(II) who is designated under
2 this subparagraph.

3 “(ii) MANNER OF DESIGNATIONS.—
4 Designations under this subparagraph
5 shall be made by the local government or
6 governments which nominated the area to
7 be an empowerment zone.

8 “(iii) LIMITATION ON DESIGNA-
9 TIONS.—The number of employees for
10 whom a designation under this subpara-
11 graph is in effect at any one time with re-
12 spect to each empowerment zone shall not
13 exceed—

14 “(I) 500 for purposes of subpara-
15 graph (A)(i), and

16 “(II) 2,000 for purposes of sub-
17 paragraph (A)(ii).”.

18 (2) QUALIFIED ZONE EMPLOYEE.—Paragraph
19 (1) of section 1396(d) is amended—

20 (A) by striking “within an empowerment
21 zone” in subparagraph (A), and

22 (B) by striking “such empowerment zone”
23 in subparagraph (B) and inserting “an em-
24 powerment zone”.

1 (d) CARRYFORWARD OF UNALLOCATED STATE COM-
 2 Mercial REVITALIZATION EXPENDITURE CEILING.—
 3 Paragraph (1) of section 1400I(d) is amended to read as
 4 follows:

5 “(1) IN GENERAL.—The aggregate commercial
 6 revitalization expenditure amount which a commer-
 7 cial revitalization agency may allocate for any cal-
 8 endar year is the amount equal to the sum of—

9 “(A) the amount of the State commercial
 10 revitalization expenditure ceiling determined
 11 under this paragraph for such calendar year for
 12 such agency (determined without regard to sub-
 13 paragraph (B)), and

14 “(B) the aggregate of the unused State
 15 commercial revitalization expenditure ceilings
 16 determined under this paragraph for such agen-
 17 cy for each of the 2 preceding calendar years.

18 For purposes of subparagraph (B), amounts of ex-
 19 penditure ceiling shall be treated as allocated by an
 20 agency first from unused amounts for the second
 21 preceding calendar year, then from unused amounts
 22 for the 1st preceding calendar year, and then from
 23 amounts from the current year State allocation.”.

24 (e) AUTHORITY TO EXPAND BOUNDARIES OF ZONES
 25 AND COMMUNITIES.—

1 (1) EMPOWERMENT ZONES AND ENTERPRISE
2 COMMUNITIES.—Section 1391 is amended by adding
3 at the end the following new subsection:

4 “(i) AUTHORITY TO EXPAND BOUNDARIES OF DES-
5 IGNATED AREAS.—

6 “(1) IN GENERAL.—At the request of all gov-
7 ernments which nominated an area as an empower-
8 ment zone or enterprise community, the appropriate
9 Secretary may expand the area of such zone or com-
10 munity to include 1 or more noncontiguous areas if
11 such governments establish to the satisfaction of the
12 appropriate Secretary that such expansion furthers
13 the purposes of the designation of the initial area as
14 such a zone or community.

15 “(2) RURAL AREAS.—With respect to any em-
16 powerment zone or enterprise community located in
17 a rural area, at the request of the nominating local
18 government, the appropriate Secretary shall expand
19 the area of such zone or community to include the
20 entire area of such nominating local government, but
21 only if—

22 “(A) the poverty rate and the unemploy-
23 ment rate for such entire area as determined by
24 the 2000 decennial census data was at least
25 110 percent of such rate for the United States,

1 “(B) during the period beginning with the
 2 1990 decennial census and ending with the
 3 2000 decennial census, such entire area has a
 4 net outmigration of inhabitants of at least 10
 5 percent of the population of such area, and

6 “(C) such entire area meets 1 or more of
 7 the following criteria determined by the 2000
 8 decennial census data:

9 “(i) Median household income is not
 10 more than 70 percent of such income for
 11 the United States.

12 “(ii) Per capita income is not more
 13 than 75 percent of such income for the
 14 United States.

15 “(iii) The percentage of such area’s
 16 population which is disabled is at least 130
 17 percent of such percentage for the United
 18 States.”.

19 (2) RENEWAL COMMUNITIES.—Section 1400E
 20 is amended by adding at the end the following new
 21 subsection:

22 “(h) AUTHORITY TO EXPAND BOUNDARIES OF DES-
 23 IGNATED AREAS.—

24 “(1) IN GENERAL.—At the request of all gov-
 25 ernments which nominated an area as a renewal

1 community, the Secretary of Housing and Urban
2 Development may expand the area of such commu-
3 nity to include 1 or more noncontiguous areas if
4 such governments establish to the satisfaction of
5 such Secretary that such expansion furthers the pur-
6 poses of the designation of the initial area as a re-
7 newal community.

8 “(2) RURAL AREAS.—With respect to any re-
9 newal community located in a rural area, at the re-
10 quest of the nominating local government, the ap-
11 propriate Secretary shall expand the area of such
12 community to include the entire area of such nomi-
13 nating local government, but only if—

14 “(A) the poverty rate and the unemploy-
15 ment rate for such entire area as determined by
16 the 2000 decennial census data was at least
17 110 percent of such rate for the United States,

18 “(B) during the period beginning with the
19 1990 decennial census and ending with the
20 2000 decennial census, such entire area has a
21 net outmigration of inhabitants of at least 10
22 percent of the population of such area, and

23 “(C) such entire area meets 1 or more of
24 the following criteria determined by the 2000
25 decennial census data:

1 “(i) Median household income is not
 2 more than 70 percent of such income for
 3 the United States.

4 “(ii) Per capita income is not more
 5 than 75 percent of such income for the
 6 United States.

7 “(iii) The percentage of such area’s
 8 population which is disabled is at least 130
 9 percent of such percentage for the United
 10 States.”.

11 (f) MODIFICATION OF REQUIREMENT FOR EXPAND-
 12 ING DESIGNATED AREA BASED ON 2000 CENSUS.—
 13 Clause (ii) of section 1400E(g)(1)(A) is amended to read
 14 as follows:

15 “(ii) such tract has a poverty rate
 16 using 2000 census data—

17 “(I) which is at least 20 percent,
 18 or

19 “(II) which exceeds the poverty
 20 rate for such tract using 1990 census
 21 data.”.

22 (g) REPEAL OF EXCLUSION OF CENTRAL BUSINESS
 23 DISTRICT FROM ELIGIBILITY AS DESIGNATED AREA.—
 24 Paragraph (3) of section 1392(a) is amended by adding
 25 “and” at the end of subparagraph (B), by striking “, and”

1 at the end of subparagraph (C) and inserting a period,
 2 and by striking subparagraph (D).

3 (h) CARRYOVER OF UNUSED INCREASED SECTION
 4 179 EXPENSING LIMIT.—

5 (1) IN GENERAL.—Subparagraph (A) of section
 6 1397A(a)(1) is amended to read as follows:

7 “(A) the sum of—

8 “(i) \$35,000, and

9 “(ii) the aggregate of the unused in-
 10 creased limitations for each of the 2 pre-
 11 ceding taxable years, or”.

12 (2) UNUSED INCREASED LIMITATION.—Section
 13 1392 is amended by adding at the end the following
 14 new subsection:

15 “(c) UNUSED INCREASED LIMITATION.—For pur-
 16 poses of subsection (a)(1)(A)—

17 “(1) IN GENERAL.—The unused increased limi-
 18 tation for any taxable year is the excess (but not
 19 more than \$35,000) of the limitation under section
 20 179(b)(1) as increased under subsection (a) over the
 21 cost of section 179 property which is qualified zone
 22 property placed in service during the taxable year.

23 “(2) ORDERING RULE.—The limitation under
 24 section 179(b)(1) as increased under subsection (a)
 25 shall be treated as used first from unused limitation

1 for the second preceding calendar year, then from
 2 unused limitation for the 1st preceding calendar
 3 year, and then from such limitation for the current
 4 year.”.

5 (i) ELECTION OF FINANCING ARRANGEMENT IN
 6 LIEU OF TAX BENEFITS.—Section 1396 is amended by
 7 adding at the end the following new subsection:

8 “(e) ELECTION OF FINANCING ARRANGEMENT IN
 9 LIEU OF TAX BENEFITS.—

10 “(1) IN GENERAL.—At the election of any sig-
 11 nificant empowerment zone business, for the pay-
 12 ment period of the debt obligation designated in
 13 such election by such business—

14 “(A) such business—

15 “(i) shall not be treated as an enter-
 16 prise zone business for purposes of section
 17 1396, and

18 “(ii) shall not be allowed any deduc-
 19 tion for depreciation under section 168 with
 20 respect to qualified zone property, and

21 “(B) the Secretary shall make the pay-
 22 ments described in paragraph (2) to the holder
 23 of such debt obligation.

24 “(2) PAYMENTS.—

1 “(A) IN GENERAL.—At the beginning of
 2 each year of the payment period, the Secretary
 3 shall pay (out of any money in the Treasury not
 4 otherwise appropriated) to the holder of the
 5 debt obligation designated by such zone busi-
 6 ness an amount equal to the value of the tax
 7 benefits under this chapter for such year to
 8 which such zone business would be entitled but
 9 for the election under this subsection.

10 “(B) ASSUMPTIONS.—For purposes of val-
 11 uing tax benefits under subparagraph (A), the
 12 Secretary shall assume that—

13 “(i) the business is an enterprise zone
 14 business for purposes of section 1396,

15 “(ii) all qualified zone property placed
 16 in service by the zone business is a single
 17 property with a recovery period under sec-
 18 tion 168 of 15 years, and

19 “(iii) the rate of tax under this chap-
 20 ter is 25 percent.

21 “(C) PAYMENT PERIOD.—The payment pe-
 22 riod is the period of 15 calendar years begin-
 23 ning with the earlier of—

24 “(i) the calendar year specified (be-
 25 fore the beginning of such year) by the

1 taxpayer as the 1st year of the payment
2 period, or

3 “(ii) the 5th calendar year beginning
4 after the date that the election under this
5 subsection is made.

6 “(3) SIGNIFICANT EMPOWERMENT ZONE BUSI-
7 NESS.—For purposes of this subsection, the term
8 ‘significant empowerment zone business’ means any
9 trade or business operating in an empowerment zone
10 if—

11 “(A) such business is nominated by the
12 State or local government which nominated the
13 area taken into account under section 1396 to
14 be an empowerment zone, and

15 “(B) the Secretary of Housing and Urban
16 Development determines that it is reasonably
17 anticipated that such business will increase em-
18 ployment in such zone during the first 3 years
19 of the payment period by at least the lesser
20 of—

21 “(i) 1,000 full-time employees, or

22 “(ii) 10 percent of the number of full-
23 time employees estimated to have been em-
24 ployed in such zone on the date of its des-
25 ignation.”.

1 (j) CERTAIN FEDERALLY GUARANTEED BONDS
 2 ISSUED TO PROVIDE INVESTMENTS IN EMPOWERMENT
 3 ZONES AND RENEWAL COMMUNITIES PERMITTED TO BE
 4 TAX-EXEMPT, ETC.—Subparagraph (A) of section
 5 149(b)(3) is amended by striking “or” at the end of clause
 6 (ii), by striking the period at the end of clause (iii) and
 7 inserting “, or”, and by adding at the end the following
 8 new clause:

9 “(iv) any guarantee by a Federal
 10 Home Loan Bank for a bond 95 percent or
 11 more of the net proceeds of which are to
 12 be used to provide property in an em-
 13 powerment zone or renewal community.”.

14 (k) TAX-EXEMPT INTEREST OF FINANCIAL INSTITU-
 15 TIONS ON ZONE FACILITY BONDS NOT SUBJECT TO IN-
 16 TEREST DISALLOWANCE.—Subparagraph (B) of section
 17 265(b)(3) (defining qualified bond) is amended by adding
 18 at the end the following new clause:

19 “(iii) ENTERPRISE ZONE FACILITY
 20 BONDS.—The term ‘qualified tax-exempt
 21 obligation’ includes any obligation which is
 22 treated as an exempt facility bond by sec-
 23 tion 1394.”.

1 (l) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 the date of the enactment of this Act.

4 (m) REPORTING.—The Secretary of the Treasury (or
5 the Secretary’s delegate) shall annually submit to the
6 Committee on Ways and Means of the House of Rep-
7 resentatives and the Committee on Finance of the Senate
8 a report detailing for each empowerment zone, enterprise
9 community, and renewal community the amount and type
10 of claimed tax benefits.

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