

111TH CONGRESS
2D SESSION

H. R. 4826

To promote neighborhood stabilization by incentivizing short sales, as a preferable alternative to foreclosure, through the Internal Revenue Code of 1986.

IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 2010

Mr. FOSTER introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To promote neighborhood stabilization by incentivizing short sales, as a preferable alternative to foreclosure, through the Internal Revenue Code of 1986.

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 This Act may be cited as the “Responsible Home-
5 owner Relief Act of 2010”.

1 **SEC. 2. DEDUCTION FOR LOSS FROM SALE OF PRINCIPAL**
2 **RESIDENCE.**

3 (a) IN GENERAL.—Part VII of subchapter B of chap-
4 ter I of the Internal Revenue Code of 1986 (relating to
5 additional itemized deductions for individuals) is amended
6 by redesignating section 224 as section 225 and by insert-
7 ing after section 223 the following new section:

8 **“SEC. 224. LOSS FROM SALE OF PRINCIPAL RESIDENCE.**

9 “(a) ALLOWANCE OF DEDUCTION.—In the case of an
10 individual, there shall be allowed as a deduction for the
11 taxable year any loss recognized on the sale or exchange
12 of property during the taxable year if, during the 5-year
13 period ending on the date of the sale or exchange, such
14 property has been owned and used by the taxpayer as the
15 taxpayer’s principal residence for periods aggregating 2
16 years or more.

17 “(b) LIMITATIONS.—

18 “(1) AGGREGATE LIMITATION.—The aggregate
19 amount allowed as a deduction under subsection (a)
20 for all taxable years shall not exceed \$9,000.

21 “(2) ANNUAL LIMITATION.—

22 “(A) IN GENERAL.—The amount allowed
23 to a taxpayer as a deduction under subsection
24 (a) for a taxable year shall not exceed \$3,000.

25 “(B) CARRYFORWARD.—If the deduction
26 allowable under subsection (a) for any taxable

1 year exceeds the limitation imposed by subpara-
2 graph (A) for the taxable year, the excess shall
3 be carried to each of the 2 succeeding taxable
4 years and added to the deduction allowable
5 under subsection (a) for such succeeding year.

6 “(3) EXCLUSION OF LOSS ALLOCATED TO NON-
7 QUALIFIED USE.—

8 “(A) IN GENERAL.—Subsection (a) shall
9 not apply to so much of the loss from the sale
10 or exchange of property as is allocated to peri-
11 ods of nonqualified use.

12 “(B) ALLOCATION.—For purposes of sub-
13 paragraph (A), loss shall be allocated to periods
14 of nonqualified use based on the ratio which—

15 “(i) the aggregate periods of non-
16 qualified use during the period such prop-
17 erty was owned by the taxpayer, bears to

18 “(ii) the period such property was
19 owned by the taxpayer.

20 “(C) PERIOD OF NONQUALIFIED USE; CO-
21 ORDINATION WITH RECOGNITION OF GAIN AT-
22 TRIBUTABLE TO DEPRECIATION.—For purposes
23 of this paragraph, rules similar to the rules of
24 subparagraphs (C) and (D) of section 121(b)(5)
25 shall apply.

1 “(4) APPLICATION TO ONLY 1 SALE.—

2 “(A) IN GENERAL.—Subsection (a) shall
3 not apply to more than 1 sale or exchange of
4 a principal residence by the taxpayer.

5 “(B) SPECIAL RULE FOR JOINT RE-
6 TURNS.—In the case of a joint return with re-
7 spect to the sale or exchange of a principal resi-
8 dence, if a deduction was allowable under sub-
9 section (a) to a spouse for a prior sale or ex-
10 change of a principal residence, paragraphs (1)
11 and (2)(A) shall be applied by reducing the dol-
12 lar amounts therein by the deduction so allow-
13 able (one-half of such deduction in the case of
14 a joint return).

15 “(5) SALE OR EXCHANGE WITH RELATED PER-
16 SON.—

17 “(A) IN GENERAL.—Subsection (a) shall
18 not apply to any sale or exchange to a related
19 person.

20 “(B) RELATED PERSON.—For purposes of
21 this subparagraph (A), a person (hereinafter in
22 this subparagraph referred to as the ‘related
23 person’) is related to any person if—

1 “(i) the related person bears a rela-
2 tionship to such person specified in section
3 267(b) or section 707(b)(1), or

4 “(ii) the related person and such per-
5 son are engaged in trades or business
6 under common control (within the meaning
7 of subsections (a) and (b) of section 52).

8 For purposes of clause (i), in applying section
9 267(b) or 707(b)(1), ‘10 percent’ shall be sub-
10 stituted for ‘50 percent’.

11 “(c) HOME SALES PRICE MUST BE CONSISTENT
12 WITH LOCAL MARKET.—The sale or exchange of a prin-
13 cipal residence shall not be taken into account for pur-
14 poses of subsection (a) unless the taxpayer demonstrates
15 to the satisfaction of the Secretary that the price for which
16 such home is sold (or value received in the case of an ex-
17 change) is consistent with local property values of dwell-
18 ings of a similar size and condition at the time of such
19 sale or exchange.

20 “(d) APPLICABLE RULES.—For purposes of this sec-
21 tion, rules similar to the rules of subsection (d) of section
22 121 shall apply, except that paragraph (6) thereof shall
23 be applied by substituting ‘loss’ for ‘gain’.

24 “(e) ELECTION TO HAVE SECTION NOT APPLY.—
25 This section shall not apply to any sale or exchange with

1 respect to which the taxpayer elects not to have this sec-
2 tion apply.

3 “(f) TERMINATION.—The section shall not apply to
4 the sale or exchange of a principal residence after Decem-
5 ber 31, 2012.”.

6 (b) DEDUCTION ALLOWED IN COMPUTING AD-
7 JUSTED GROSS INCOME.—Subsection (a) of section 62 of
8 such Code is amended by inserting before the last sentence
9 the following new paragraph:

10 “(22) LOSS FROM SALE OF PRINCIPAL RESI-
11 DENCE.—The deduction allowed by section 224.”.

12 (c) CONFORMING AMENDMENTS.—

13 (1) Section 165(c) of such Code is amended by
14 striking “and” at the end of paragraph (2), by strik-
15 ing the period at the end of paragraph (3) and in-
16 serting “; and”, and by inserting after paragraph
17 (3) the following new paragraph:

18 “(4) to the extent provided in section 224,
19 losses from the sale or exchange of a principal resi-
20 dence.”.

21 (2) Section 165(f) of such Code is amended by
22 inserting “and in section 224 in the case of losses
23 from the sale or exchange of a principal residence”
24 before the period at the end.

1 (d) CLERICAL AMENDMENT.—The table of sections
 2 for part VII of subchapter B of chapter 1 of such Code
 3 is amended by striking the item relating to section 224
 4 and inserting the following:

“Sec. 224. Loss from sale of principal residence.”.

5 (e) EFFECTIVE DATE.—The amendments made by
 6 this section shall apply to taxable years beginning after
 7 December 31, 2008.

8 **SEC. 3. WAIVER OF FANNIE MAE AND FREDDIE MAC WAIT-**
 9 **ING PERIOD REQUIREMENTS AFTER SHORT**
 10 **SALE FOR CERTAIN MORTGAGORS.**

11 (a) IN GENERAL.—The Federal National Mortgage
 12 Association and the Federal Home Loan Mortgage Cor-
 13 poration shall waive the applicability of any short sale
 14 waiting period requirement with respect to the purchase
 15 and any commitment to purchase, by such Association or
 16 Corporation, of a covered mortgage if the mortgagor under
 17 such covered mortgage—

18 (1) was, at the time of the short sale of the
 19 principal dwelling of such mortgagor that was sub-
 20 ject to the previous mortgage, current on all pay-
 21 ments due under the mortgage satisfied by such
 22 short sale; and

23 (2) has a credit score greater than the equiva-
 24 lent of a FICO score of 679.

1 (b) DEFINITIONS.—For purposes of this section, the
2 following definitions shall apply:

3 (1) COVERED MORTGAGE.—The term “covered
4 mortgage” means a mortgage under which the mort-
5 gator is an individual who was previously the mort-
6 gator under another mortgage on the principal
7 dwelling of such mortgagor, which principal dwelling
8 was sold in a short sale.

9 (2) SHORT SALE.—The term “short sale”, with
10 respect to an individual, has the meaning given such
11 term under section 605(a)(7)(B) of the Fair Credit
12 Reporting Act.

13 (3) SHORT SALE WAITING PERIOD REQUIRE-
14 MENT.—The term “short sale waiting period re-
15 quirement” means any underwriting or other re-
16 quirement of the Federal National Mortgage Asso-
17 ciation or the Federal Home Loan Mortgage Cor-
18 poration that requires, for the purchase by such As-
19 sociation or Corporation of a mortgage under which
20 the mortgagor is an individual who was previously
21 the mortgagor under another mortgage that was
22 sold in a short sale, that any minimum period of
23 time elapse after the occurrence of such short sale.

1 (c) SUNSET.—The provisions of this section shall
2 cease to be effective on and after January 1, 2013.

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