

(a party from whom the REIT does not receive income). Second, a REIT may hold foreclosure property for resale to customers without being subject to the 100 percent prohibited transaction tax (although subject to the highest corporate taxes). Third, non-qualifying income from foreclosure property (from activities conducted by the REIT or independent contractor after 90 days) is not considered for purposes of the REIT gross income tests, but generally is subject to the highest corporate tax rate. The foreclosure property election is valid for 2 years, but may be extended for 2 additional terms (a total of 6 years) with IRS consent.

Under H.R. 2121, the election procedure would be modified in the following ways: (1) the initial election and one renewal period would last for 3 years; (2) the initial election would remain effective until the last day of the third taxable year following the election (instead of exactly two years from the date of election); and (3) a one-time election out of foreclosure property status would be made available to accommodate situations when a REIT desires to discontinue foreclosure property status.

In addition, the independent contractor rule under the election would be modernized so that it worked in the same manner as the general independent contractor rule. Currently a REIT may provide to tenants of non-foreclosure property services customary in the leasing of real property. However, this previous modernization of the independent contractor rule was not made to the rules governing the required use of independent contractors for foreclosure property.

Section 303. Special Foreclosure Rules For Health Care Properties. In the case of health care REITs, H.R. 2121 provides that a REIT would not violate the independent contractor requirement if the REIT receives rents from a lease to that independent contractor as a tenant at a second health care facility. This change recognizes the limited number of health care providers available to serve as an independent contractor on a property acquired by the REIT in foreclosure, and the REIT's likely inability to simply close the facility due to the nature of the facilities inhabitants. In addition, the health care rules would extend the foreclosure property rules to expirations or terminations of health care REIT leases, since similar issues arise in those circumstances.

Section 304. Payments Under Hedging Instruments. H.R. 2121 would extend the REIT variable interest hedging rule to permit a REIT to treat as qualifying any income from the hedge of any REIT liability secured by real property or used to acquire or improve real property. This provision would apply to hedging a REIT's unsecured corporate debt.

Section 305. Excess Noncash Income. H.R. 2121 would expand the use of the excess noncash income exclusion currently provided under the REIT distribution rules. The bill would (1) extend the exclusion to include most forms of phantom income and (2) make the exclusion available accrual basis REITs. Under the exclusion, listed forms of phantom income would be excluded from the REIT 95 percent distribution requirement. However, the income would be taxed at the REIT level if the REIT did not make sufficient distributions.

Section 306. Prohibited Transaction Safe Harbor. H.R. 2121 would correct a problem in the wording of Congress' past liberalization of the safe harbor from the 100 percent excise tax on prohibited transactions, i.e., sales of property in the ordinary course of business. The adverse effect of accumulated depreciation on the availability of the safe harbor, which punishes REITs that hold their properties for longer terms, would be mitigated,

In addition, involuntary conversions of property no longer would count against the permitted 7 sales of property under the safe harbor.

Section 307. Shared Appreciation Mortgages ("SAM"). In general, section 856(j) provides that a REIT may receive income based on a borrower's sale of the underlying property. However, the character of that income is determined by the borrower's actions. The SAM provision would be modified and clarified so that a REIT lender would not be penalized by a borrower's bankruptcy (an event beyond its control) and would clarify that a SAM could be based on appreciation in value as well as gain.

Section 308. Wholly Owned Subsidiaries. In 1986, Congress realized the usefulness of a REIT holding properties in subsidiaries to limit its liability exposure. H.R. 2121 would codify a recent IRS private letter ruling position providing that a REIT may treat a wholly-owned subsidiary as a qualified REIT subsidiary even if the subsidiary previously had been owned by a non-REIT entity. For example, this bill would allow a REIT to treat a corporation as a qualified REIT subsidiary when it purchases for cash and/or stock all the stock of a non-REIT C corporation.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1996

SPEECH OF

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 27, 1995

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2099) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1996, and for other purposes:

Ms. PELOSI. Mr. Chairman, I rise today in support of the amendment offered by Congressmen DEFAZIO, ROHRBACHER, STARK, and METCALF to reduce the funding for the Selective Service by \$17 million in fiscal year 1996. This \$17 million savings would then be transferred to the Veterans' Administration medical care account.

Mr. Speaker, not only would this amendment save millions of dollars annually; it would also streamline Government, reduce paperwork, and reduce the regulatory burden on U.S. citizens. Indeed, if a national security threat to the United States were serious enough to require a draft, the Department of Defense would have a recruit pool of hundreds of thousands of young men and women from the Reserve component and delayed entry, as well as hundreds of thousands of patriotic volunteers.

The savings that this important amendment will realize will instead be applied to the VA medical care account where the need is far greater. Our Nation's veterans have suffered greatly during the 104th Congress and this amendment addresses their most basic need: quality medical care.

Mr. Speaker, throughout the history of our Republic, we have continually asked the men

and women of our Armed Forces to make tremendous sacrifices on our behalf. It is critically important that we repay them for their sacrifice and uphold the promises we made to these veterans to care for them as they grow older.

In the context of a \$1.6 trillion Federal budget, the savings gained by this amendment may seem small. But they stand for the continued commitment we have toward caring for our veterans.

My colleagues, the DeFazio-Rohrabacher-Stark amendment represents the realization that the cold war has ended and so too the need for draft registration activities. More importantly, it signals our continued budgetary commitment to the medical care account at the VA and to our veterans.

I urge my colleagues to vote "Yes" on this amendment.

TRIBUTE TO MABLE WATKINS-CASS

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 28, 1995

Mr. RUSH. Mr. Speaker, I rise today to pay tribute to Mrs. Mable Watkins-Cass, who on Sunday, June 30, 1995, will celebrate the occasion of her 60th birthday.

Mrs. Cass is a longtime resident of the city of Chicago. Born in Holly Springs, MS to the union of Mr. Windom Jones and the late Mrs. Ann Speights-Anderson, she came to Chicago in her formative years with her parents. Mrs. Cass is the proud mother of four children and the grandmother of five.

Mrs. Cass attended the Chicago public schools where she graduated from the Lucy Flowers Vocational High School. Additionally, she worked dutifully as an employee of the public school system, until her retirement in 1982.

A deeply devoted Christian woman, Mrs. Cass has served faithfully for the past 25 years as a member of the Gospel Temple Missionary Baptist Church on the southside of Chicago, under the leadership of the late Rev. Dr. Jethro Gayles and the Rev. Bishop Smith. She has also been an active member of the National Baptist Convention and the Illinois Baptist State Convention.

Over the years, Mrs. Cass has been very active in civic and community affairs. Many of these activities include work with her block club organizations and the local electoral process.

Mr. Speaker, Mrs. Mable Watkins-Cass has dedicated her life to helping others. Her commitment and contributions to people have made her both, admired and respected. I am privileged that in my lifetime our paths have crossed. I am honored to call her a friend and I am proud to enter these words into the RECORD.