

Section 11: Report on Secondary Market Mechanism For Reinsurance Contracts requires the Treasury Secretary to create a mechanism to sell excess-loss contracts (at least 20 percent of the total written dollar value) in the capitol markets and report back to Congress, within 18 months, with recommendations for statutory change.

Section 11: Definitions.

#### AGRICULTURE ADVISORY BOARD

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 7, 1997*

Mr. COSTELLO. Mr. Speaker, I rise today in recognition of a group of individuals who have been of great service to me during the past 2 years. This group is the Agriculture Advisory Board for the 12th Congressional District of Illinois. The 13 members of the Ag Advisory Board members represent each of the nine counties in the district. The group met several times throughout the 104th Congress.

This last Congress will be memorable one for the agricultural community. The recently implemented Farm Bill of 1996 has changed the way producers receive payments from the Federal Government. These payments, set at specified decreasing amounts each year for the next seven years, replaces the former system of deficiency payments, which payed farmers based on market conditions. The legislation also recognizes the need for greater exports of our American-grown commodities. Illinois is a leader in the production of corn, wheat and soybeans. The opportunities for greater exporting will improve the economy in each member's town and throughout the state.

I commented each member for giving of his time and insights to help make well-informed decisions. The members of my Agriculture Advisory Committee during the 104th Congress were Mike Campbell of Edwardsville, John Deterding of Modoc, Lawrence Dietz of DeSoto, Edwin Edleman of Anna, Greg Guenther of Belleville, Craig Keller of Collinsville, Marion Kennell of Thompsonville, Vernon Mayer of Culter, Dave Mueller of East Alton, Larry Reinneck of Freeburg, Bill Schulte of Trenton, Jim Taflinger of Cache, and Lyle Wessel of Columbia.

I am pleased that these gentlemen will be staying on the Ag Advisory Board during the 105th Congress. The Farm Bill has brought about spending cuts in many farm programs, and each board member's input will be critical to me as I review the various Federal programs in an oversight and appropriations capacity. I look forward to working with each member on agricultural matters during the 105th Congress. I ask my colleagues to join me in recognizing these individuals.

#### LENDING ENHANCEMENT THROUGH NECESSARY DUE PROCESS ACT

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 7, 1997*

Mr. McCOLLUM. Mr. Speaker, I rise today to reintroduce the Lending Enhancement Through Necessary Due Process Act.

In the aftermath of the Savings and Loan [S&L] crisis, Congress empowered the Federal Deposit Insurance Corporation [FDIC], the Resolution Trust Corporation [RTC], and other agencies to prosecute the S&L crooks and pursue other wrongdoers through civil suits to collect damage awards to lessen the taxpayer costs of the thrift debacle.

Although the government's efforts have been successful in carrying out Congress' mandate, government agencies have launched a zealous civil litigation campaign against anyone even remotely connected to a failed bank or thrift. Litigation against marginal defendants and the use of highly-paid outside counsel have aggravated the credit crunch in the early 1990's. Directors and officers in financial institutions are reluctant to make character loans or business loans with any element of risk for fear that they could be accused of negligence by the regulators if the loan ever failed. Currently, banks and thrifts have found it difficult to attract qualified bank directors and officers because of the campaign of fear brought on by the regulators.

Taxpayer funds have been wasted and the lives and reputations of countless individuals are being ruined. In their fervor to squeeze every last dollar out of S&L and bank professionals, the RTC and the FDIC are spending an inordinate amount of time and money pursuing marginal cases in which the culpability of the defendants is highly questionable. Faced with an enormous pool of potential individuals to sue, the FDIC and the RTC have employed over 2400 law firms, paying them more than \$504 million in 1992 alone. These law firms had little incentive to reduce taxpayer costs and every incentive to bill thousands of hours in the pursuit of former directors and officers, regardless of their culpability. Meanwhile, defending these suits is a costly, demeaning, and time consuming enterprise. Many defendants have agreed to costly settlements, regardless of guilt, in order to avoid bankruptcy.

The Lending Enhancement Through Necessary Due Process Act will remedy these types of abuses and still allow the regulators to pursue culpable individuals. First, accused directors and officers will be allowed to assert defenses to overreaching accusations. One example is the business judgment defense. The courts in all of the States recognize the business judgement rule either by case law or by statute. This bill will establish defenses for business judgement, regulatory actions and unforeseen economic consequences.

Second, this legislation would require that regulators have good cause to obtain the personal financial records of potential defendants. The current practice is to ask for the financial records of all parties and then sue the richest, regardless of culpability. This bill requires that the regulators demonstrate a violation of the law and the likelihood that the individual will dissipate assets.

Third, this act will give defendants additional protection to prevent the freezing of their assets without good cause. Finally, the standard for director and officer liability will be clarified by stating that the standard is gross negligence rather than simple negligence. I understand the Supreme Court has seen it necessary to take a closer look at the standard of negligence as it applies to these cases.

Mr. Speaker, although most of these cases have been brought to their final disposition, I

strongly believe that changes need to be made so the abuses I described do not continue during the resolution of future failures. While I understand, but do not necessarily agree with, the need to use excessive force to resolve the S&L debacle, the time has come for the pendulum to swing back to the center. This bill will accomplish this.

#### COMMENTS UPON INTRODUCTION OF THE RATEPAYER PROTEC- TION ACT

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 7, 1997*

Mr. STEARNS. Mr. Speaker, I rise today to introduce legislation that will not only save American consumers billions of dollars, but also reduce Federal regulation and promote competition in the electric power industry.

My bill will prospectively repeal section 210 of the Public Utility Regulatory Policies Act of 1978—PURPA. Section 210 mandates utilities to buy power from a certain privileged class of generators of electricity at prices set not by the free market but by the government. In fact, the independent Utility Data Institute estimates that consumers pay as much as \$8 billion a year more for their electric energy as a consequence of this anti-competitive mandate.

Simply put, PURPA is a Federal barrier to a more efficient, cost-effective, and competitive electricity industry. Each day we wait to deal with PURPA is another day that this mandate distorts electric markets and creates liabilities that will become stranded investments. Already, PURPA is estimated to have burdened the market with over \$38 billion in stranded costs.

As I said upon introduction of virtually identical legislation during the 104th Congress, my only interest in introducing this bill lies in achieving the most efficient and most cost-effective means of electric generation for America's consumers. I am prepared to move forward with this bill as introduced, or as a part of a much broader legislative effort. Indeed, I am anxious to work with Chairman SCHAEFER, Chairman BLILEY, the House Committee on Commerce, and all other interested parties as Congress moves forward with its comprehensive examination of the industry. But it must be noted that we can take an important step toward the laudable end with the timely and sagacious elimination of PURPA's unnecessary and costly Federal mandate.

Everyone will agree that we must begin to explore a move toward an electricity industry that is based on competition, market force, and lower prices for ratepayers. This is certainly my objective as I introduce this imperative aspect of electricity reform legislation.

#### INTRODUCTION OF THE MEDICARE PREVENTIVE BENEFIT EXPAN- SION ACT OF 1997

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 7, 1997*

Mr. THOMAS. Mr. Speaker, today I join with Mr. BILIRAKIS and Mr. CARDIN in introducing a