

112TH CONGRESS  
1ST SESSION

# H. R. 1697

To enhance the ability of community banks to foster economic growth and serve their communities, boost small businesses, increase individual savings, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 3, 2011

Mr. LUETKEMEYER introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Financial Services and Agriculture, 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

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## A BILL

To enhance the ability of community banks to foster economic growth and serve their communities, boost small businesses, increase individual savings, 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 “Community Banks Serving Their Communities First  
6 Act” or the “Communities First Act”.

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

Sec. 1. Short title; table of contents.

TITLE I—TARGETED REGULATORY RELIEF FOR COMMUNITY  
 BANKS

- Sec. 101. Short form reports of condition for certain community banks.  
 Sec. 102. Community bank exemption from annual management assessment of  
 internal controls requirement of the Sarbanes-Oxley Act of  
 2002.  
 Sec. 103. Changes required to small bank holding company policy statement on  
 assessment of financial and managerial factors.  
 Sec. 104. Accounting principles shall reflect business models.  
 Sec. 105. Accounting principles cost-benefit requirements.  
 Sec. 106. Increase in shareholder registration threshold.  
 Sec. 107. FSOC review of Bureau regulations.  
 Sec. 108. Federal Reserve examination authority.

TITLE II—REGULATORY RELIEF FOR COMMUNITY BANKS AND  
 THEIR CUSTOMERS

- Sec. 201. Escrow requirements.  
 Sec. 202. Exception to annual privacy notice requirement under the Gramm-  
 Leach-Bliley Act.  
 Sec. 203. Fees for agriculture loans.  
 Sec. 204. Reimbursement for production of mandated records.  
 Sec. 205. Loan amortization.  
 Sec. 206. Loan appraisals.  
 Sec. 207. Credit ratings.  
 Sec. 208. Small business data collection exclusion.

TITLE III—TAX RELIEF FOR BANK DEPOSITORS, RURAL BANKS,  
 MUNICIPALITIES, BANKS ORGANIZED AS LIMITED LIABILITY  
 COMPANIES, AND YOUNG SAVERS

- Sec. 301. Reduced rate and deferral of income recognition on long-term certifi-  
 cates of deposit.  
 Sec. 302. Exclusion for interest on loans secured by agricultural real property.  
 Sec. 303. Update in cap on qualified small issue bonds.  
 Sec. 304. Limited liability company tax treatment for FDIC-insured limited li-  
 ability companies.  
 Sec. 305. Young savers' accounts.

TITLE IV—TAX RELIEF FOR COMMUNITY BANKS AND HOLDING  
 COMPANIES

- Sec. 401. Limited tax credit.  
 Sec. 402. Qualifying investments in small bank issuers.  
 Sec. 403. 5-year NOL carryback for certain banks.

TITLE V—SMALL BUSINESS SUBCHAPTER S REFORMS

- Sec. 501. Increasing shareholder limit for subchapter S to 200.

Sec. 502. Issuance of preferred stock permitted for subchapter S corporations.  
 Sec. 503. IRA shareholders.

1 **TITLE I—TARGETED REGU-**  
 2 **LATORY RELIEF FOR COMMU-**  
 3 **NITY BANKS**

4 **SEC. 101. SHORT FORM REPORTS OF CONDITION FOR CER-**  
 5 **TAIN COMMUNITY BANKS.**

6 (a) IN GENERAL.—Section 7(a) of the Federal De-  
 7 posit Insurance Act (12 U.S.C. 1817(a)) is amended by  
 8 inserting at the end the following new paragraph:

9 “(12) SHORT FORM REPORTS OF CONDITION  
 10 FOR COMMUNITY BANKS.—

11 “(A) IN GENERAL.—With respect to re-  
 12 ports of condition required under paragraph (3)  
 13 for each calendar quarter, an insured depository  
 14 institution described in subparagraphs (A), (B),  
 15 (C), and (D) of section 10(d)(4) may submit a  
 16 short form of any such report of condition in 2  
 17 nonsequential quarters of any calendar year.

18 “(B) ASSET ADJUSTMENTS.—For purposes  
 19 of this paragraph, the asset levels for section  
 20 10(d)(4) shall be \$10,000,000,000 in the case  
 21 of subparagraph (A) and \$1,000,000,000 in the  
 22 case of subparagraph (C).

23 “(C) SHORT FORM DEFINED.—The term  
 24 ‘short form’, when used in connection with any

1 report of condition required under paragraph  
2 (3), means a report of condition in a format es-  
3 tablished by the appropriate Federal banking  
4 agency, after notice and opportunity for com-  
5 ment, that—

6 “(i) is significantly and materially less  
7 burdensome for the insured depository in-  
8 stitution to prepare than the format of the  
9 report of condition required under para-  
10 graph (3); and

11 “(ii) provides sufficient material infor-  
12 mation for the appropriate Federal bank-  
13 ing agency to assure the maintenance of  
14 the safe and sound condition of the deposi-  
15 tory institution and safe and sound prac-  
16 tices.”.

17 (b) REGULATIONS.—Any regulation required to carry  
18 out the amendment made by subsection (a) shall be pub-  
19 lished in final form before the end of the 6-month period  
20 beginning on the date of the enactment of this Act.

1 **SEC. 102. COMMUNITY BANK EXEMPTION FROM ANNUAL**  
2 **MANAGEMENT ASSESSMENT OF INTERNAL**  
3 **CONTROLS REQUIREMENT OF THE SAR-**  
4 **BANES-OXLEY ACT OF 2002.**

5 Section 404 of the Sarbanes-Oxley Act of 2002 (15  
6 U.S.C. 7262) is amended by adding the following new sub-  
7 section:

8 “(d) **COMMUNITY BANK EXEMPTION.**—

9 “(1) **IN GENERAL.**—This section shall not apply  
10 in any year to any insured depository institution  
11 which, as of the close of the preceding year, had  
12 total assets, as determined on a consolidated basis,  
13 of \$1,000,000,000 or less.

14 “(2) **ADJUSTMENT OF AMOUNT.**—The Commis-  
15 sion shall annually adjust the dollar amount in para-  
16 graph (1) by an amount equal to the percentage in-  
17 crease, for the most recent year, in total assets held  
18 by all depository institutions, as reported by the  
19 Federal Deposit Insurance Corporation.”.

20 **SEC. 103. CHANGES REQUIRED TO SMALL BANK HOLDING**  
21 **COMPANY POLICY STATEMENT ON ASSESS-**  
22 **MENT OF FINANCIAL AND MANAGERIAL FAC-**  
23 **TORS.**

24 (a) **SMALL BANK HOLDING COMPANY POLICY**  
25 **STATEMENT ON ASSESSMENT OF FINANCIAL AND MANA-**  
26 **GERIAL FACTORS.**—

1           (1) IN GENERAL.—Before the end of the 6-  
2           month period beginning on the date of the enact-  
3           ment of this Act, the Board of Governors of the  
4           Federal Reserve System shall publish in the Federal  
5           Register proposed revisions to the Small Bank Hold-  
6           ing Company Policy Statement on Assessment of Fi-  
7           nancial and Managerial Factors (12 C.F.R. part  
8           225—appendix C) that provide that the policy shall  
9           apply to a bank holding company which has pro  
10          forma consolidated assets of less than  
11          \$1,000,000,000 and that—

12                   (A) is not engaged in any nonbanking ac-  
13                   tivities involving significant leverage; and

14                   (B) does not have a significant amount of  
15                   outstanding debt that is held by the general  
16                   public.

17           (2) ADJUSTMENT OF AMOUNT.—The Board of  
18           Governors of the Federal Reserve System shall an-  
19           nually adjust the dollar amount referred to in para-  
20           graph (1) in the Small Bank Holding Company Pol-  
21           icy Statement on Assessment of Financial and Man-  
22           agerial Factors by an amount equal to the percent-  
23           age increase, for the most recent year, in total assets  
24           held by all insured depository institutions, as deter-  
25           mined by the Board.

1 (b) INCREASE IN DEBT-TO-EQUITY RATIO OF SMALL  
2 BANK HOLDING COMPANY.—Before the end of the 6-  
3 month period beginning on the date of the enactment of  
4 this Act, the Board of Governors of the Federal Reserve  
5 System shall publish in the Federal Register proposed re-  
6 visions to the Small Bank Holding Company Policy State-  
7 ment on Assessment of Financial and Managerial Factors  
8 (12 C.F.R. part 225—appendix C) such that the debt-to-  
9 equity ratio allowable for a small bank holding company  
10 in order to remain eligible to pay a corporate dividend and  
11 to remain eligible for expedited processing procedures  
12 under Regulation Y of the Board of Governors of the Fed-  
13 eral Reserve System would increase from 1:1 to 3:1.

14 **SEC. 104. ACCOUNTING PRINCIPLES SHALL REFLECT BUSI-**  
15 **NESS MODELS.**

16 (a) Section 13(a) of the Securities Exchange Act of  
17 1934 (15 U.S.C. 78m) is redesignated as paragraph (a)(1)  
18 and paragraphs (1) and (2) are redesignated as subpara-  
19 graphs (A) and (B).

20 (b) Section 13(a) is further amended by adding the  
21 following new paragraph—

22 “(2) The Commission shall ensure that information,  
23 documents, and reports accurately and appropriately re-  
24 flect the business model of the issuer.”.

1 **SEC. 105. ACCOUNTING PRINCIPLES COST-BENEFIT RE-**  
2 **QUIREMENTS.**

3 The Securities Exchange Act of 1934 is amended by  
4 inserting after section 13A the following new section:

5 **“SEC. 13B. GENERALLY ACCEPTED ACCOUNTING PRIN-**  
6 **CIPLES COST-BENEFIT REQUIREMENTS.**

7 “The Commission shall conduct analyses of the costs  
8 and benefits (including economic benefits) of any new or  
9 amended generally accepted accounting principle and may  
10 not approve any new or amended generally accepted ac-  
11 counting principle unless the Commission determines  
12 that—

13 “(1) the benefits of such principle significantly  
14 outweigh its costs; and

15 “(2) such principle would not have a negative  
16 economic impact on insured depository institutions  
17 with total assets of \$10,000,000,000 or less.”.

18 **SEC. 106. INCREASE IN SHAREHOLDER REGISTRATION**  
19 **THRESHOLD.**

20 (a) REGISTRATION.—Section 12(g) of the Securities  
21 Exchange Act of 1934 (15 U.S.C. 78l(g)) is amended—

22 (1) in paragraph (1), by striking subparagraphs  
23 (A) and (B) and inserting the following:

24 “(A) in the case of an issuer that is a bank or  
25 a bank holding company, as such term is defined in

1 section 2 of the Bank Holding Company Act of 1956  
2 (12 U.S.C. 1841), 2000 persons or more; and

3 “(B) in the case of an issuer that is not a bank  
4 or bank holding company, 500 persons or more,”;  
5 and

6 (2) in paragraph (4), by striking “three hun-  
7 dred” and inserting “300 persons, or, in the case of  
8 a bank or a bank holding company, as such term is  
9 defined in section 2 of the Bank Holding Company  
10 Act of 1956 (12 U.S.C. 1841), 1700”.

11 (b) SUSPENSION.—Section 15(d) of the Securities  
12 Exchange Act of 1934 (15 U.S.C. 78o(d)) is amended, in  
13 the third sentence, by striking “three hundred” and in-  
14 serting “300 persons, or, in the case of bank or a bank  
15 holding company, as such term is defined in section 2 of  
16 the Bank Holding Company Act of 1956 (12 U.S.C.  
17 1841), 1700”.

18 **SEC. 107. FSOC REVIEW OF BUREAU REGULATIONS.**

19 Section 1023(a) of the Consumer Financial Protec-  
20 tion Act of 2010 is amended—

21 (1) by striking “provision would put the safety  
22 and soundness of the United States banking system  
23 or the stability of the financial system of the United  
24 States at risk.”; and

25 (2) by inserting the following:

1 “provision—

2 “(1) is inconsistent with the safe and sound op-  
3 eration of United States financial institutions; or

4 “(2) could adversely impact a subset of the  
5 banking industry disproportionately.”.

6 **SEC. 108. FEDERAL RESERVE EXAMINATION AUTHORITY.**

7 Section 1012(c) of the Consumer Financial Protec-  
8 tion Act of 2010 is amended—

9 (1) by striking paragraph (1); and

10 (2) by redesignating paragraphs (2), (3), (4),  
11 and (5) as paragraphs (1), (2), (3), and (4), respec-  
12 tively.

13 **TITLE II—REGULATORY RELIEF**  
14 **FOR COMMUNITY BANKS AND**  
15 **THEIR CUSTOMERS**

16 **SEC. 201. ESCROW REQUIREMENTS.**

17 (a) IN GENERAL.—Section 129D(c) of the Truth in  
18 Lending Act, as added by section 1461(a) of the Dodd-  
19 Frank Wall Street Reform and Consumer Protection Act,  
20 is amended—

21 (1) by redesignating paragraphs (1), (2), (3),  
22 and (4) as subparagraph (A), (B), (C), and (D) and  
23 moving such subparagraphs 2ems to the right;

24 (2) striking “The Board” and inserting the fol-  
25 lowing:

1 “(1) IN GENERAL.—The Board”; and

2 (3) by adding at the end the following new  
3 paragraph:

4 “(2) TREATMENT OF LOANS HELD BY SMALLER  
5 CREDITORS.—The Board shall, by regulation, exempt  
6 from the requirements of subsection (a) any loan secured  
7 by a first lien on a consumer’s principle dwelling, if such  
8 loan is held by a creditor with assets of \$10,000,000,000  
9 or less.”.

10 **SEC. 202. EXCEPTION TO ANNUAL PRIVACY NOTICE RE-**  
11 **QUIREMENT UNDER THE GRAMM-LEACH-BLI-**  
12 **LEY ACT.**

13 Section 503 of the Gramm-Leach-Bliley Act (15  
14 U.S.C. 6803) is amended by adding the following new sub-  
15 sections:

16 “(f) EXCEPTION TO ANNUAL NOTICE REQUIRE-  
17 MENT.—A financial institution that—

18 “(1) provides nonpublic personal information  
19 only in accordance with the provisions of subsection  
20 (b)(2) or (e) of section 502 or regulations prescribed  
21 under section 504(b),

22 “(2) does not share information with affiliates  
23 under section 603(d)(2)(A) of the Fair Credit Re-  
24 porting Act, and

1           “(3) has not changed its policies and practices  
2           with regard to disclosing nonpublic personal infor-  
3           mation from the policies and practices that were dis-  
4           closed in the most recent disclosure sent to con-  
5           sumers in accordance with this subsection,  
6           shall not be required to provide an annual disclosure under  
7           this subsection until such time as the financial institution  
8           fails to comply with any criteria described in paragraph  
9           (1), (2), or (3).

10          “(g) EXCEPTION TO NOTICE REQUIREMENT.—A fi-  
11          nancial institution shall not be required to provide any dis-  
12          closure under this section if—

13                 “(1) the financial institution is licensed by a  
14                 State and is subject to existing regulation of con-  
15                 sumer confidentiality that prohibits disclosure of  
16                 nonpublic personal information without knowing and  
17                 expressed consent of the consumer in the form of  
18                 laws, rules, or regulation of professional conduct or  
19                 ethics promulgated either by the court of highest ap-  
20                 pellate authority or by the principal legislative body  
21                 or regulatory agency or body of any State of the  
22                 United States, the District of Columbia, or any ter-  
23                 ritory of the United States; or

24                 “(2) the financial institution is licensed by a  
25                 State and becomes subject to future regulation of

1 consumer confidentiality that prohibits disclosure of  
2 nonpublic personal information without knowing and  
3 expressed consent of the consumer in the form of  
4 laws, rules, or regulation of professional conduct or  
5 ethics promulgated either by the court of highest ap-  
6 pellate authority or by the principal legislative body  
7 or regulatory agency or body of any State of the  
8 United States, the District of Columbia, any terri-  
9 tory of the United States.”.

10 **SEC. 203. AGRICULTURE LOAN GUARANTEES.**

11 (a) FEES.—Section 310B(g)(5) of the Consolidated  
12 Farm and Rural Development Act (7 U.S.C. 1932(g)(5))  
13 is amended by inserting before the period the following:  
14 “, except that for loans under \$5,000,000, the Secretary  
15 may assess a 1-time fee of 1 percent or less of the guaran-  
16 teed principal portion of the loan”.

17 (b) GUARANTEE AMOUNTS.—Section 364 of the Con-  
18 solidated Farm and Rural Development Act (7 U.S.C.  
19 2006f) is amended—

20 (1) in subsection (a)—

21 (A) in paragraph (3)—

22 (i) by striking “may” and inserting  
23 “shall”; and

24 (ii) by striking “standards that are  
25 not less stringent than”;

1 (B) in paragraph (4), by inserting before  
2 the period the following: “except that the Sec-  
3 retary may guarantee not more than 90 percent  
4 of a loan made by a certified lender if such loan  
5 is in an amount of less than \$5,000,000”; and

6 (C) in paragraph (6); and

7 (2) in subsection (b)—

8 (A) by amending paragraph (1) to read as  
9 follows:

10 “(1) IN GENERAL.—The Secretary may estab-  
11 lish a preferred certified lender’s program for lend-  
12 ers who—

13 “(A) establish their—

14 “(i) knowledge of, and experience  
15 under, the program established under sub-  
16 section (a);

17 “(ii) knowledge of the regulations con-  
18 cerning the particular guaranteed loan pro-  
19 gram; and

20 “(iii) proficiency related to the cer-  
21 tified lender program requirement; or

22 “(B) in the absence of a demand for or ex-  
23 perience with guaranteed loans having been  
24 made under a rural development program, es-

1 tablish their proven experience in having made  
2 small business loans.”; and

3 (B) in paragraph (5)(A), by inserting be-  
4 fore the semicolon the following: “except that  
5 the Secretary may guarantee not more than 90  
6 percent of a loan made by a certified lender if  
7 such loan is in an amount of less than  
8 \$5,000,000”.

9 **SEC. 204. REIMBURSEMENT FOR PRODUCTION OF MAN-**  
10 **DATED RECORDS.**

11 (a) CORPORATE RECORDS.—Section 1101(4) of the  
12 Right to Financial Privacy Act of 1978 (12 U.S.C.  
13 3401(4)) is amended by inserting before the semicolon the  
14 following: “, except that, for purposes of section 1115,  
15 such term includes any entity”.

16 (b) CLARIFICATION OF SCOPE.—Section 1115 of the  
17 Right to Financial Privacy Act of 1978 (12 U.S.C. 3415)  
18 is amended by adding at the end the following new sub-  
19 section:

20 “(c) CLARIFICATION OF SCOPE.—Notwithstanding  
21 subsection (a), the fee for reimbursement described under  
22 such subsection shall be paid by a Government authority  
23 for all records required to be assembled or provided for  
24 any Federal law enforcement or investigative purpose by

1 any financial institution with total assets of  
2 \$10,000,000,000 or less.”.

3 **SEC. 205. LOAN AMORTIZATION.**

4 (a) IN GENERAL.—For purposes of capital calcula-  
5 tion under the Financial Institutions Examination Coun-  
6 cil’s Consolidated Reports of Condition, an eligible institu-  
7 tion may choose to amortize any loss or write-down, on  
8 a quarterly straight-line basis over the 10-year period be-  
9 ginning with the month in which such loss or write-down  
10 occurs, resulting from the application of FASB Statement  
11 114 or 144 to—

12 (1) other real estate owned (as defined under  
13 section 34.81 of title 12, Code of Federal Regula-  
14 tions); or

15 (2) an impaired loan secured by real estate,  
16 provided that the institution discloses the difference  
17 in the amount of the institution’s capital, when cal-  
18 culated taking into account the temporary amortiza-  
19 tion, from the amount of the institution’s capital  
20 when calculated without taking into account the  
21 temporary amortization on the Financial Institutions  
22 Examination Council’s Consolidated Reports of Con-  
23 dition.

24 (b) ELIGIBLE INSTITUTION DEFINED.—For pur-  
25 poses of this section, the term “eligible institution” has

1 the meaning given such term under section 4102(11) of  
2 the Small Business Jobs Act of 2010.

3 (c) **EFFECTIVE DATE.**—The provisions of this section  
4 shall apply to loan originations that occurred on or after  
5 January 1, 2003, and before January 1, 2008.

6 **SEC. 206. LOAN APPRAISALS.**

7 For purposes of determining capital requirements or  
8 measuring capital of an insured depository institution  
9 under section 38 of the Federal Deposit Insurance Act (12  
10 U.S.C. 1831o) or any other provision of law, an insured  
11 depository institution may average, over a five-year period,  
12 the appraised value of any real estate securing a loan held  
13 by the institution.

14 **SEC. 207. CREDIT RATINGS.**

15 Section 939A(b) of the Dodd-Frank Wall Street Re-  
16 form and Consumer Protection Act is amended by striking  
17 the first sentence and inserting: “Each such agency shall  
18 modify any such regulations identified by the review con-  
19 ducted under subsection (a) and require that ratings-  
20 based determinations be confirmed by an analysis of the  
21 probability of a loss from holding such an asset, but only  
22 in circumstances where external credit ratings present an  
23 incomplete picture of the risks presented to an institution,  
24 or where those risks are heightened due to concentrations  
25 in particular assets classes.”.

1 **SEC. 208. SMALL BUSINESS DATA COLLECTION EXCLUSION.**

2 Section 704B(h)(1) of the Equal Credit Opportunity  
3 Act is amended by inserting before the period the fol-  
4 lowing: “and that has assets of more than  
5 \$1,000,000,000”.

6 **TITLE III—TAX RELIEF FOR**  
7 **BANK DEPOSITORS, RURAL**  
8 **BANKS, MUNICIPALITIES,**  
9 **BANKS ORGANIZED AS LIM-**  
10 **ITED LIABILITY COMPANIES,**  
11 **AND YOUNG SAVERS**

12 **SEC. 301. REDUCED RATE AND DEFERRAL OF INCOME REC-**  
13 **OGNITION ON LONG-TERM CERTIFICATES OF**  
14 **DEPOSIT.**

15 (a) DEFERRAL OF INCOME RECOGNITION.—Section  
16 451 of the Internal Revenue Code of 1986 is amended by  
17 adding at the end the following new subsection:

18 “(j) CERTIFICATES OF DEPOSITS HELD BY CASH  
19 BASIS INDIVIDUALS.—In the case of an individual on the  
20 cash receipts and disbursements method of accounting  
21 who holds a nonnegotiable certificate of deposit, interest  
22 income which is not made available for withdrawal before  
23 maturity of the certificate without penalty shall not be in-  
24 cludible in gross income before the certificate is redeemed  
25 or matures.”.

1 (b) INTEREST INCOME ON LONG-TERM CERTIFI-  
2 CATES OF DEPOSIT.—Subparagraph (A) of section  
3 1(h)(11) of such Code is amended by striking “increased  
4 by qualified dividend income” and inserting the following:  
5 “increased by—

6 “(i) qualified dividend income, and  
7 “(ii) interest income on any nonnego-  
8 tiable certificate of deposit—  
9 “(I) with a fixed maturity date  
10 which is 1 year or more from the date  
11 of issue, and  
12 “(II) the interest on which is not  
13 made available for withdrawal before  
14 maturity without penalty.”.

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

18 **SEC. 302. EXCLUSION FOR INTEREST ON LOANS SECURED**  
19 **BY AGRICULTURAL REAL PROPERTY.**

20 (a) IN GENERAL.—Part III of subchapter B of chap-  
21 ter 1 of the Internal Revenue Code of 1986 is amended  
22 by inserting after section 139D the following new section:

1 **“SEC. 139E. INTEREST ON LOANS SECURED BY AGRICUL-**  
2 **TURAL REAL PROPERTY.**

3 “(a) EXCLUSION.—Gross income shall not include in-  
4 terest received by a qualified lender on any qualified real  
5 estate loan.

6 “(b) DEFINITIONS.—For purposes of this section—

7 “(1) QUALIFIED LENDER.—The term ‘qualified  
8 lender’ means any bank or savings association the  
9 deposits of which are insured under the Federal De-  
10 posit Insurance Act (12 U.S.C. 1811 et seq.).

11 “(2) QUALIFIED REAL ESTATE LOAN.—The  
12 term ‘qualified real estate loan’ means any loan se-  
13 cured by agricultural real estate or by a leasehold  
14 mortgage (with a status as a lien) on agricultural  
15 real estate. For purposes of the preceding sentence,  
16 the determination of whether property securing such  
17 loan is agricultural real estate shall be made as of  
18 the time the interest income on such loan is accrued.

19 “(3) AGRICULTURAL REAL ESTATE.—The term  
20 ‘agricultural real estate’ means—

21 “(A) real property used for the production  
22 of 1 or more agricultural products, and

23 “(B) any single family residence—

24 “(i) which is the principal residence  
25 (within the meaning of section 121) of its  
26 occupant,

1                   “(ii) which is located in a rural area  
2                   (as determined by the Secretary of Agri-  
3                   culture), which is not within a Metropoli-  
4                   tan Statistical Area (as defined by the Of-  
5                   fice of Management and Budget) and  
6                   which has a population (determined on the  
7                   basis of the most recent decennial census  
8                   for which data are available) of 2,500 or  
9                   less, and

10                   “(iii) which is purchased or improved  
11                   with the proceeds of the qualified real es-  
12                   tate loan.

13                   “(c) COORDINATION WITH SECTION 265.—Qualified  
14                   real estate loans shall be treated as obligations described  
15                   in section 265(a)(2) the interest on which is wholly exempt  
16                   from the taxes imposed by this subtitle.”.

17                   (b) CLERICAL AMENDMENT.—The table of sections  
18                   for such part III is amended by inserting after the item  
19                   relating to section 139D the following new item:

                  “Sec. 139E. Interest on loans secured by agricultural real property.”.

20                   (c) EFFECTIVE DATE.—The amendments made by  
21                   this section shall apply to taxable years beginning after  
22                   the date of the enactment of this Act.

1 **SEC. 303. UPDATE IN CAP ON QUALIFIED SMALL ISSUE**  
2 **BONDS.**

3 (a) **IN GENERAL.**—Clause (i) of section 144(a)(4)(A)  
4 of the Internal Revenue Code of 1986 is amended by strik-  
5 ing “\$10,000,000” and inserting “\$30,000,000”.

6 (b) **ADJUSTMENT OF CAP FOR INFLATION.**—Sub-  
7 section (a) of section 144 of such Code is amended by re-  
8 designating paragraph (12) as paragraph (13) and by in-  
9 serting after paragraph (11) the following new paragraph:

10 “(12) **INFLATION ADJUSTMENT.**—In the case of  
11 any issue issued during a calendar year after 2011,  
12 the \$30,000,000 amount contained in paragraph  
13 (4)(A)(i) shall be increased by an amount equal to—

14 “(A) such dollar amount, multiplied by

15 “(B) the cost-of-living adjustment deter-  
16 mined under section 1(f)(3) for such calendar  
17 year by substituting ‘calendar year 2010’ for  
18 ‘calendar year 1992’ in subparagraph (B)  
19 thereof.

20 Any increase under the preceding sentence which is  
21 not a multiple of \$100,000 shall be rounded to the  
22 next lowest multiple of \$100,000.”.

23 (c) **CONFORMING AMENDMENT.**—The heading of  
24 paragraph (4) of section 144(a) of such Code is amended  
25 by striking “\$10,000,000 LIMIT” and inserting “INCREASED  
26 LIMITATION”.

1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to—

3 (1) obligations issued after the date of the en-  
4 actment of this Act, and

5 (2) capital expenditures made after such date  
6 with respect to obligations issued on or before such  
7 date.

8 **SEC. 304. LIMITED LIABILITY COMPANY TAX TREATMENT**  
9 **FOR FDIC-INSURED LIMITED LIABILITY COM-**  
10 **PANIES.**

11 (a) IN GENERAL.—Paragraph (2) of section 7701(a)  
12 of the Internal Revenue Code of 1986 (defining partner-  
13 ship and partner) is amended to read as follows:

14 “(2) PARTNER AND PARTNERSHIP.—

15 “(A) IN GENERAL.—The term ‘partner-  
16 ship’ includes a syndicate, group, pool, joint  
17 venture, or other unincorporated organization,  
18 through or by means of which any business, fi-  
19 nancial operation, or venture is carried on, and  
20 which is not, within the meaning of this title,  
21 a trust or estate or a corporation; and the term  
22 ‘partner’ includes a member in such a syn-  
23 dicate, group, pool, joint venture, or organiza-  
24 tion.

1                   “(B) ELECTION BY CERTAIN BANKS TO BE  
2                   TAXED AS PARTNERSHIPS.—

3                   “(i) IN GENERAL.—An eligible cor-  
4                   poration may elect to be treated as a part-  
5                   nership for purposes of this title.

6                   “(ii) TAX TREATMENT.—In the case  
7                   of an eligible corporation making an elec-  
8                   tion under clause (i)—

9                   “(I) no gain or loss shall be rec-  
10                  ognized to the corporation or the  
11                  shareholders by reason of an election  
12                  under clause (i), and

13                  “(II) section 1374 shall apply to  
14                  the entity after such election.

15                  “(iii) ELIGIBLE CORPORATION.—The  
16                  term ‘eligible corporation’ means any enti-  
17                  ty described in clause (iv) if—

18                  “(I) such entity would (but for  
19                  this subparagraph) be treated as a C  
20                  corporation for purposes of this title,  
21                  and

22                  “(II) the gross assets of such en-  
23                  tity (determined under the rules of  
24                  section 1202(d)) are \$10,000,000,000  
25                  or less.

1                   “(iv) ENTITIES DESCRIBED.—The en-  
2                   tities described in this clause are the fol-  
3                   lowing:

4                               “(I) Any bank (as defined in sec-  
5                               tion 581).

6                               “(II) Any bank holding company  
7                               (as defined in section 2(a) of the  
8                               Bank Holding Company Act of 1956  
9                               (12 U.S.C. 1841(a))).

10                              “(III) Any savings association  
11                              (as defined in section 3(b) of the Fed-  
12                              eral Deposit Insurance Act (12 U.S.C.  
13                              1813)).

14                              “(IV) Any savings and loan hold-  
15                              ing company (as defined in section  
16                              10(a)(1)(D) of the Home Owners  
17                              Loan Act).”.

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

21 **SEC. 305. YOUNG SAVERS’ ACCOUNTS.**

22           (a) IN GENERAL.—Section 408A of the Internal Rev-  
23 enue Code of 1986 is amended by adding at the end the  
24 following new subsection:

1       “(g) SPECIAL RULES FOR ROTH IRAS FOR CHIL-  
2 DREN.—

3               “(1) GENERAL RULE.—In the case of a Roth  
4 IRA maintained for the benefit of an individual who  
5 has not attained age 26 before the close of the tax-  
6 able year, the limitation on contributions under  
7 paragraph (2) shall apply in lieu of paragraphs (2)  
8 and (3) of subsection (c).

9               “(2) LIMITATION ON CONTRIBUTIONS.—The  
10 aggregate amount of contributions for any taxable  
11 year to all Roth IRAs maintained for the benefit of  
12 an individual described in paragraph (1) with re-  
13 spect to such taxable year shall not exceed the max-  
14 imum amount allowable as a deduction under sub-  
15 section (b)(1) of section 219 for such taxable year  
16 (computed without regard to subsections (b)(1)(B),  
17 (d)(1), and (g) of such section).”.

18       (b) ENFORCEMENT OF CONTRIBUTION LIMITS.—  
19 Paragraphs (1)(B) and (2)(B) of section 4973(f) of such  
20 Code are each amended by striking “and (c)(3)” and in-  
21 serting “, (c)(3), and (g)(2)”.

22       (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to taxable years beginning after  
24 December 31, 2011.

1 **TITLE IV—TAX RELIEF FOR COM-**  
2 **MUNITY BANKS AND HOLD-**  
3 **ING COMPANIES**

4 **SEC. 401. LIMITED TAX CREDIT.**

5 (a) C CORPORATIONS.—Section 11 of the Internal  
6 Revenue Code of 1986 (relating to tax imposed) is amend-  
7 ed by adding at the end the following new subsection:

8 “(e) REDUCTION OF TAX ON COMMUNITY BANKS.—

9 “(1) IN GENERAL.—In the case of a C corpora-  
10 tion which is a community bank, the aggregate tax  
11 imposed by this section, section 55, and section  
12 1201 shall be 80 percent of the aggregate tax which  
13 would (but for this subsection) be imposed by such  
14 sections.

15 “(2) MAXIMUM REDUCTION.—The reduction in  
16 tax by reason of this subsection shall not exceed  
17 \$250,000. Corporations treated as 1 corporation  
18 under section 1202(d)(3) shall be so treated under  
19 this subsection, and the limitation under the pre-  
20 ceding sentence shall be allocated among such cor-  
21 porations in such manner as the Secretary shall pre-  
22 scribe.

23 “(3) INCREASED BENEFIT FOR BANKS OPER-  
24 ATING IN DISTRESSED AREAS, ETC.—

1           “(A) IN GENERAL.—In the case of a bank  
2 operating in an area referred to in subpara-  
3 graph (B)—

4           “(i) paragraph (1) shall be applied by  
5 substituting ‘50 percent’ for ‘80 percent’,  
6 and

7           “(ii) paragraph (2) shall be applied by  
8 substituting ‘\$500,000’ for ‘\$250,000’.

9           “(B) AREAS DESCRIBED.—The areas re-  
10 ferred to in this subparagraph are—

11           “(i) empowerment zones and enter-  
12 prise communities designated under section  
13 1391,

14           “(ii) renewal communities designated  
15 under section 1400E,

16           “(iii) low-income communities (as de-  
17 fined in section 45D(e)), and

18           “(iv) distressed communities (within  
19 the meaning of section 233 of the Bank  
20 Enterprise Act of 1991 (12 U.S.C.  
21 1834a(b)).

22           “(4) COMMUNITY BANK.—For purposes of this  
23 section, the term ‘community bank’ means any of  
24 the following entities the gross assets of which (de-

1       terminated under the rules of section 1202(d)) are  
2       \$10,000,000,000 or less:

3               “(A) Any bank (as defined in section 581).

4               “(B) Any bank holding company (as de-  
5       fined in section 2(a) of the Bank Holding Com-  
6       pany Act of 1956 (12 U.S.C. 1841(a))).

7               “(C) Any savings association (as defined in  
8       section 3(b) of the Federal Deposit Insurance  
9       Act (12 U.S.C. 1813)).

10              “(D) Any savings and loan holding com-  
11       pany (as defined in section 10(a)(1)(D) of the  
12       Home Owners Loan Act).”.

13       (b) S CORPORATIONS.—Subsection (a) of section  
14       1366 of such Code is amended by adding at the end the  
15       following new paragraph:

16              “(3) REDUCTION OF TAX ON COMMUNITY  
17       BANKS.—

18              “(A) IN GENERAL.—In the case of a S cor-  
19       poration which is a community bank (as defined  
20       in section 11(e)(4)), the net amount required to  
21       be taken into account by shareholders (without  
22       regard to this paragraph) shall be reduced by  
23       the lesser of—

24                      “(i) 20 percent of such net amount, or

25                      “(ii) \$1,250,000.

1           “(B) INCREASED BENEFIT FOR BANKS OP-  
2           ERATING IN DISTRESSED AREAS, ETC.—In the  
3           case of a bank operating in an area referred to  
4           in section 11(e)(3)(B)—

5                   “(i) subparagraph (A)(i) shall be ap-  
6                   plied by substituting ‘50 percent’ for ‘20  
7                   percent’, and

8                   “(ii) subparagraph (A)(ii) shall be ap-  
9                   plied by substituting ‘\$2,500,000’ for  
10                  ‘\$1,250,000’.”.

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

14 **SEC. 402. QUALIFYING INVESTMENTS IN SMALL BANK**  
15 **ISSUERS.**

16          (a) GENERALLY.—The principles of Internal Revenue  
17 Service Notice 2010–2 shall apply to any qualifying invest-  
18 ment by any person in a small bank issuer in the same  
19 manner as if such investment had been made by the  
20 Treasury Department pursuant to any of the Programs  
21 (as defined in Notice 2010–2).

22          (b) DEFINITIONS.—For purposes of this section—

23                  (1) The term “qualifying investment” means  
24                  any investment in the equity of a small bank issuer  
25                  that otherwise would have constituted an ownership

1 change under section 382(g) of the Internal Revenue  
2 Code of 1986 (relating to limitations on net oper-  
3 ating loss carryforwards and certain built-in losses  
4 following an ownership change).

5 (2) The term “small bank issuer” means any  
6 insured depository institution as defined in section  
7 3(c)(2) of the Federal Deposit Insurance Act (12  
8 U.S.C. 1813(c)(2)) which—

9 (A) was required under a Prompt Correc-  
10 tive Action order issued pursuant to section 38  
11 of the Federal Deposit Insurance Act (12  
12 U.S.C. 1831o), or a formal or informal enforce-  
13 ment order, to raise capital as a result of an ex-  
14 amination that took place during calendar years  
15 2008 through 2012 by the Board of Governors  
16 of the Federal Reserve System, the Office of  
17 the Comptroller of the Currency, the Office of  
18 Thrift Supervision, or the Federal Deposit In-  
19 surance Corporation, and

20 (B) at the time of the order referred to in  
21 subparagraph (A), had total consolidated assets  
22 of \$10,000,000,000 or less.

1 **SEC. 403. 5-YEAR NOL CARRYBACK FOR CERTAIN BANKS.**

2 (a) IN GENERAL.—Subparagraph (H) of section  
3 172(b)(1) of the Internal Revenue Code of 1986 is amend-  
4 ed to read as follows:

5 “(H) CARRYBACK FOR 2010 AND 2011 NET  
6 OPERATING LOSSES OF CERTAIN BANKS.—

7 “(i) IN GENERAL.—In the case of an  
8 applicable 2010 or 2011 net operating loss  
9 of a specified bank with respect to which  
10 the taxpayer has elected the application of  
11 this subparagraph—

12 “(I) subparagraph (A)(i) shall be  
13 applied by substituting any whole  
14 number elected by the taxpayer which  
15 is more than 2 and less than 6 for ‘2’,

16 “(II) subparagraph (E)(ii) shall  
17 be applied by substituting the whole  
18 number which is one less than the  
19 whole number substituted under sub-  
20 clause (I) for ‘2’, and

21 “(III) subparagraph (F) shall not  
22 apply.

23 “(ii) APPLICABLE 2010 OR 2011 NET  
24 OPERATING LOSS.—For purposes of this  
25 subparagraph, the term ‘applicable 2010  
26 or 2011 net operating loss’ means—

1           “(I) the specified bank’s net op-  
2           erating loss for any taxable year end-  
3           ing in 2010 or 2011, or

4           “(II) if the specified bank elects  
5           to have this subclause apply in lieu of  
6           subclause (I), the specified bank’s net  
7           operating loss for any taxable year be-  
8           ginning in 2010 or 2011.

9           “(iii) SPECIFIED BANK.—For pur-  
10          poses of this subparagraph, the term ‘spec-  
11          ified bank’ means a community bank (as  
12          defined in section 11(e)(4)) and any entity  
13          which would be a community bank (as so  
14          defined) if section 11(e)(4) were applied by  
15          substituting ‘\$15,000,000,000’ for  
16          ‘\$10,000,000,000’.

17          “(iv) ELECTION.—Any election under  
18          this subparagraph shall be made in such  
19          manner as may be prescribed by the Sec-  
20          retary, and shall be made by the due date  
21          (including extension of time) for filing the  
22          taxpayer’s return for the taxable year of  
23          the net operating loss. Any such election,  
24          once made, shall be irrevocable.”.

1 (b) ANTI-ABUSE RULES.—The Secretary of Treasury  
2 or the Secretary’s designee shall prescribe such rules as  
3 are necessary to prevent the abuse of the purposes of the  
4 amendments made by this section, including anti-stuffing  
5 rules, antichurning rules (including rules relating to sale-  
6 leasebacks), and rules similar to the rules under section  
7 1091 of the Internal Revenue Code of 1986 relating to  
8 losses from wash sales.

9 (c) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply to net operating losses arising in  
11 taxable years ending after December 31, 2009.

## 12 **TITLE V—SMALL BUSINESS**

### 13 **SUBCHAPTER S REFORMS**

#### 14 **SEC. 501. INCREASING SHAREHOLDER LIMIT FOR SUB-**

#### 15 **CHAPTER S TO 200.**

16 (a) IN GENERAL.—Subparagraph (A) of section  
17 1361(b)(1) of the Internal Revenue Code of 1986 is  
18 amended by striking “100” and inserting “200”.

19 (b) EFFECTIVE DATE.—The amendment made by  
20 this section shall apply to taxable years beginning after  
21 December 31, 2011.

1 **SEC. 502. ISSUANCE OF PREFERRED STOCK PERMITTED**  
2 **FOR SUBCHAPTER S CORPORATIONS.**

3 (a) IN GENERAL.—Section 1361 (defining S corpora-  
4 tion) is amended by adding at the end the following new  
5 subsection:

6 “(h) TREATMENT OF QUALIFIED PREFERRED  
7 STOCK.—

8 “(1) IN GENERAL.—For purposes of this sub-  
9 chapter—

10 “(A) qualified preferred stock shall not be  
11 treated as a second class of stock, and

12 “(B) no person shall be treated as a share-  
13 holder of the corporation by reason of holding  
14 qualified preferred stock.

15 “(2) QUALIFIED PREFERRED STOCK DE-  
16 FINED.—For purposes of this subsection, the term  
17 ‘qualified preferred stock’ means stock which meets  
18 the requirements of subparagraphs (A), (B), and (C)  
19 of section 1504(a)(4). Stock shall not fail to be  
20 treated as qualified preferred stock merely because  
21 it is convertible into other stock.

22 “(3) DISTRIBUTIONS.—A distribution (not in  
23 part or full payment in exchange for stock) made by  
24 the corporation with respect to qualified preferred  
25 stock shall be includible as ordinary income of the  
26 holder and deductible to the corporation as an ex-

1       pense in computing taxable income under section  
2       1363(b) in the year such distribution is received.”.

3       (b) CONFORMING AMENDMENTS.—

4             (1) Paragraph (1) of section 1361(b) is amend-  
5       ed by inserting “, except as provided in subsection  
6       (f),” before “which does not”.

7             (2) Subsection (a) of section 1366 is amended  
8       by adding at the end the following new paragraph:

9             “(3) ALLOCATION WITH RESPECT TO QUALI-  
10       FIED PREFERRED STOCK.—The holders of qualified  
11       preferred stock (as defined in section 1361(h)) shall  
12       not, with respect to such stock, be allocated any of  
13       the items described in paragraph (1).”.

14            (3) So much of clause (ii) of section  
15       354(a)(2)(C) as precedes subclause (II) is amended  
16       to read as follows:

17                     “(ii) RECAPITALIZATION OF FAMILY-  
18       OWNED CORPORATIONS AND S CORPORA-  
19       TIONS.—

20                             “(I) IN GENERAL.—Clause (i)  
21       shall not apply in the case of a recapiti-  
22       talization under section 368(a)(I)(E)  
23       of a family-owned corporation or S  
24       corporation.”.

1           (4) Subsection (a) of section 1373 is amended  
2           by striking “and” at the end of paragraph (1), by  
3           striking the period at the end of paragraph (2) and  
4           inserting “, and”, and by adding at the end the fol-  
5           lowing new paragraph:

6           “(3) no amount of an expense deductible under  
7           this subchapter by reason of section 1361(h)(3) shall  
8           be apportioned or allocated to the income referred to  
9           in such section.”.

10          (c) EFFECTIVE DATE.—The amendments made by  
11          this section shall apply to taxable years beginning after  
12          December 31, 2011.

13          **SEC. 503. IRA SHAREHOLDERS.**

14          Clause (vi) of section 1361(c)(2)(A) of the Internal  
15          Revenue Code of 1986 is amended by striking “as of the  
16          date of the enactment of this clause”.

○