

authorization of the respective copyright owner; or

“(C) appears to be genuine, but is not.”;

(4) in subsection (c)—

(A) by striking paragraph (3) and inserting the following:

“(3) the counterfeit label or illicit authentication feature is affixed to, is embedded in, or encloses, or is designed to be affixed to, to be embedded in, or to enclose—

“(A) a phonorecord of a copyrighted sound recording;

“(B) a copy of a copyrighted computer program;

“(C) a copy of a copyrighted motion picture or other audiovisual work; or

“(D) documentation or packaging; or”;

(B) in paragraph (4), by striking “for a computer program”;

(5) in subsection (d)—

(A) by inserting “or illicit authentication features” after “counterfeit labels” each place it appears;

(B) by inserting “or illicit authentication features” after “such labels”; and

(C) by inserting before the period at the end the following: “, and of any equipment, device, or materials used to manufacture, reproduce, or assemble the counterfeit labels or illicit authentication features”; and

(6) by adding at the end the following:

“(f) CIVIL REMEDIES FOR VIOLATION.—

“(1) IN GENERAL.—Any copyright owner who is injured by a violation of this section or is threatened with injury, may bring a civil action in an appropriate United States district court.

“(2) DISCRETION OF COURT.—In any action brought under paragraph (1), the court—

“(A) may grant 1 or more temporary or permanent injunctions on such terms as the court determines to be reasonable to prevent or restrain violations of this section;

“(B) at any time while the action is pending, may order the impounding, on such terms as the court determines to be reasonable, of any article that is in the custody or control of the alleged violator and that the court has reasonable cause to believe was involved in a violation of this section; and

“(C) may award to the injured party—

“(i) reasonable attorney fees and costs; and

“(ii) (I) actual damages and any additional profits of the violator, as provided by paragraph (3); or

“(II) statutory damages, as provided by paragraph (4).

“(3) ACTUAL DAMAGES AND PROFITS.—

“(A) IN GENERAL.—The injured party is entitled to recover—

“(i) the actual damages suffered by the injured party as a result of a violation of this section, as provided by subparagraph (B); and

“(ii) any profits of the violator that are attributable to a violation of this section and are not taken into account in computing the actual damages.

“(B) CALCULATION OF DAMAGES.—The court shall calculate actual damages by multiplying—

“(i) the value of the phonorecords or copies to which counterfeit labels, illicit authentication features, or counterfeit documentation or packaging were affixed or embedded, or designed to be affixed or embedded; by

“(ii) the number of phonorecords or copies to which counterfeit labels, illicit authentication features, or counterfeit documentation or packaging were affixed or embedded, or designed to be affixed or embedded, unless such calculation would underestimate the actual harm suffered by the copyright owner.

“(C) DEFINITION.—For purposes of this paragraph, the term ‘value of the phonorecord or copy’ means—

“(i) the retail value of an authorized phonorecord of a copyrighted sound recording;

“(ii) the retail value of an authorized copy of a copyrighted computer program; or

“(iii) the retail value of a copy of a copyrighted motion picture or other audiovisual work.

“(4) STATUTORY DAMAGES.—The injured party may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for each violation of this section in a sum of not less than \$2,500 or more than \$25,000, as the court considers appropriate.

“(5) SUBSEQUENT VIOLATION.—The court may increase an award of damages under this subsection by 3 times the amount that would otherwise be awarded, as the court considers appropriate, if the court finds that a person has subsequently violated this section within 3 years after a final judgment was entered against that person for a violation of this section.

“(6) LIMITATION ON ACTIONS.—A civil action may not be commenced under this section unless it is commenced within 3 years after the date on which the claimant discovers the violation.

“(g) OTHER RIGHTS NOT AFFECTED.—Nothing in this section shall enlarge, diminish, or otherwise affect liability under section 1201 or 1202 of title 17.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The item relating to section 2318 in the table of sections at the beginning of chapter 113 of title 18, United States Code, is amended by inserting “or illicit authentication features” after “counterfeit labels”.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 323—TO AUTHORIZE LEGAL REPRESENTATION IN UNITED STATES OF AMERICA V. ELENA RUTH SASSOWER

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 323

Whereas, in the case of *United States of America v. Elena Ruth Sassower*, Crim. No. M-4113-3, pending in the Superior Court of the District of Columbia, the defendant has served subpoenas for testimony and documents upon Senators Orrin Hatch, Patrick Leahy, Saxby Chambliss, Hillary Rodham Clinton, and Charles Schumer, and on Senate employees Tamera Luzzatto, Chief of Staff to Senator Clinton, Leecia Eve, Counsel to Senator Clinton, Joshua Albert, Legislative Correspondent to Senator Clinton, and Michael Tobman, Director of Intergovernmental Affairs for Senator Schumer; and,

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members, officers, and employees of the Senate with respect to any subpoena, order, or request for testimony or documents relating to their official responsibilities: Now, therefore, be it

Resolved That the Senate Legal Counsel is authorized to represent the above-listed Senators and Senate employees who are the subject of subpoenas and any other Member, officer, or employee who may be subpoenaed in this case.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2891. Mr. BREAUX (for himself and Mrs. FEINSTEIN) submitted an amendment in-

tended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table.

SA 2892. Mr. BREAUX (for himself and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2893. Mr. REID (for himself and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2894. Mr. KYL (for himself and Mr. NICKLES) submitted an amendment intended to be proposed to amendment SA 2886 submitted by Mr. MCCONNELL (for Mr. FRIST) to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2895. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2896. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2897. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2898. Mr. GRASSLEY proposed an amendment to amendment SA 2886 submitted by Mr. MCCONNELL (for Mr. FRIST) to the bill S. 1637, supra.

SA 2899. Mr. GRASSLEY proposed an amendment to amendment SA 2898 proposed by Mr. GRASSLEY to the amendment SA 2886 submitted by Mr. MCCONNELL (for Mr. FRIST) to the bill S. 1637, supra.

SA 2900. Mr. THOMAS (for himself and Mr. DASCHLE) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2901. Mr. MILLER (for himself, Mr. ALLARD, Mrs. CLINTON, Mr. SCHUMER, and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2902. Mr. BOND submitted an amendment intended to be proposed to amendment SA 2886 submitted by Mr. MCCONNELL (for Mr. FRIST) to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2903. Mr. BOND (for himself and Mr. TALENT) submitted an amendment intended to be proposed to amendment SA 2886 submitted by Mr. MCCONNELL (for Mr. FRIST) to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2904. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2905. Mr. NICKLES (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2906. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2907. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2908. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2909. Mr. GRASSLEY submitted an amendment intended to be proposed by him

to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2910. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2886 submitted by Mr. MCCONNELL (for Mr. FRIST) to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2911. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2886 submitted by Mr. MCCONNELL (for Mr. FRIST) to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2912. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2886 submitted by Mr. MCCONNELL (for Mr. FRIST) to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2913. Mr. NICKLES (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed to amendment SA 2886 submitted by Mr. MCCONNELL (for Mr. FRIST) to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2914. Mr. COLEMAN submitted an amendment intended to be proposed to amendment SA 2886 submitted by Mr. MCCONNELL (for Mr. FRIST) to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2915. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2916. Mr. WYDEN (for himself and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2917. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2918. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2919. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2920. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2921. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2922. Mr. DORGAN (for himself, Ms. MIKULSKI, Mr. KOHL, Mr. KENNEDY, Mr. EDWARDS, Mr. FEINGOLD, and Mr. HARKIN) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2923. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2924. Mr. DORGAN (for himself, Mr. COLEMAN, Ms. CANTWELL, Mrs. MURRAY, Mr. BINGAMAN, and Mr. NELSON, of Nebraska) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2891. Mr. BREAUX (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rul-

ings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 137, between lines 8 and 9, insert:
“(4) DOLLAR LIMITATION.—

“(A) IN GENERAL.—Notwithstanding paragraph (1), the excess qualified foreign distribution amount shall not exceed the lesser of—

“(i) the amount shown on the applicable financial statement as earnings permanently reinvested outside the United States, or

“(ii) the excess (if any) of—

“(I) the estimated aggregate qualified expenditures of the corporation for taxable years ending in 2005, 2006, and 2007, over

“(II) the aggregate qualified expenditures of the corporation for taxable years ending in 2001, 2002, and 2003.

“(B) EARNINGS PERMANENTLY REINVESTED OUTSIDE THE UNITED STATES.—

“(i) IN GENERAL.—If an amount on an applicable financial statement is shown as Federal income taxes not required to be reserved by reason of the permanent reinvestment of earnings outside the United States, subparagraph (A)(i) shall be applied by reference to the earnings to which such taxes relate.

“(ii) NO STATEMENT OR STATED AMOUNT.—If there is no applicable financial statement or such a statement fails to show a specific amount described in subparagraph (A)(i) or clause (i), such amount shall be treated as being zero.

“(iii) APPLICABLE FINANCIAL STATEMENT.—For purposes of this paragraph, the term ‘applicable financial statement’ means the most recently audited financial statement (including notes and other documents which accompany such statement)—

“(I) which is certified on or before March 31, 2003, as being prepared in accordance with generally accepted accounting principles, and

“(II) which is used for the purposes of a statement or report to creditors, to shareholders, or for any other substantial nontax purpose.

In the case of a corporation required to file a financial statement with the Securities and Exchange Commission, such term means the most recent such statement filed on or before March 31, 2003.

“(C) QUALIFIED EXPENDITURES.—For purposes of this paragraph, the term ‘qualified expenditures’ means—

“(i) wages (as defined in section 3121(a)),

“(ii) additions to capital accounts for property located within the United States (including any amount which would be so added but for a provision of this title providing for the expensing of such amount),

“(iii) qualified research expenses (as defined in section 41(b)) and basic research payments (as defined in section 41(e)(2)), and

“(iv) irrevocable contributions to a qualified employer plan (as defined in section 72(p)(4)) but only if no deduction is allowed under this chapter with respect to such contributions.

“(D) RECAPTURE.—If the taxpayer’s estimate of qualified expenditures under subparagraph (A)(ii)(I) is greater than the actual expenditures, then the tax imposed by this chapter for the taxpayer’s last taxable year ending in 2007 shall be increased by the sum of—

“(i) the increase (if any) in tax which would have resulted in the taxable year for which the deduction under this section was allowed if the actual expenditures were used in lieu of the estimated expenditures, plus

“(ii) interest at the underpayment rate, determined as if the increase in tax described in clause (i) were an underpayment for the taxable year of the deduction.

“(5) LIMITATION ON CONTROLLED FOREIGN CORPORATIONS IN POSSESSIONS.—In computing the excess qualified foreign distribution amount under paragraph (1) and the base dividend amount under paragraph (2), there shall not be taken into account dividends received from any controlled foreign corporation created or organized under the laws of any possession of the United States.

SA 2892. Mr. BREAUX (for himself and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, add the following:

SEC. . . . REPEAL OF 10 YEAR RULE FOR QUALIFIED MORTGAGE BONDS; HOLIDAY FOR USE OF CERTAIN REPAYMENTS.

(a) REPEAL.—Subparagraph (A) of section 143(a)(2) (relating to qualified mortgage issue defined) is amended by striking the last sentence thereof.

(b) HOLIDAY FOR PREPAYMENTS.—Subparagraph (A) of section 143(a)(2) is amended by adding at the end the following flush sentence: “Clause (iv) shall not apply to amounts received during 2004, 2005, and 2006.”.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to bonds issued after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to amounts received after December 31, 2003.

SEC. . . . MODIFICATION OF PURCHASE PRICE LIMITATION UNDER MORTGAGE SUBSIDY BOND RULES BASED ON MEDIAN FAMILY INCOME.

(a) IN GENERAL.—Paragraph (1) of section 143(e) (relating to purchase price requirement) is amended to read as follows:

“(1) IN GENERAL.—An issue meets the requirements of this subsection only if the acquisition cost of each residence the owner-financing of which is provided under the issue does not exceed the greater of—

“(A) 90 percent of the average area purchase price applicable to the residence, or

“(B) 3.5 times the applicable median family income (as defined in subsection (f)).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to financing provided, and mortgage credit certificates issued, after the date of the enactment of this Act.

SEC. . . . DETERMINATION OF AREA MEDIAN GROSS INCOME FOR LOW-INCOME HOUSING CREDIT PROJECTS.

(a) IN GENERAL.—Paragraph (4) of section 42(g) (relating to certain rules made applicable) is amended by striking the period at the end and inserting “and in areas designated by the housing credit agency as requiring higher income limits to support development costs and project feasibility, the term ‘area median gross income’ means the amount equal to the greater of—

“(A) the area median gross income determined under section 142(d)(2)(B), or

“(B) the statewide median gross income for the State in which the project is located.”.