

109TH CONGRESS  
2D SESSION

# S. 2366

To amend the Internal Revenue Code of 1986 to replace the recapture bond provisions of the low income housing tax credit program.

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## IN THE SENATE OF THE UNITED STATES

MARCH 3, 2006

Mrs. LINCOLN (for herself, Mr. SANTORUM, and Ms. SNOWE) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to replace the recapture bond provisions of the low income housing tax credit program.

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. REPEAL OF RECAPTURE BOND RULE.**

4       (a) IN GENERAL.—Paragraph (6) of section 42(j) of  
5       the Internal Revenue Code of 1986 (relating to recapture  
6       of credit) is amended to read as follows:

7               “(6) NO RECAPTURE ON DISPOSITION OF  
8       BUILDING (OR INTEREST THEREIN) REASONABLY  
9       EXPECTED TO CONTINUE AS A QUALIFIED LOW-IN-  
10       COME BUILDING.—

1           “(A) IN GENERAL.—In the case of a dis-  
 2           position of a building or an interest therein, the  
 3           taxpayer shall be discharged from liability for  
 4           any additional tax under this subsection by rea-  
 5           son of such disposition if it is reasonably ex-  
 6           pected that such building will continue to be op-  
 7           erated as a qualified low-income building for  
 8           the remaining compliance period with respect to  
 9           such building.

10           “(B) STATUTE OF LIMITATIONS.—

11           “(i) EXTENSION OF PERIOD.—The pe-  
 12           riod for assessing a deficiency attributable  
 13           to the application of subparagraph (A)  
 14           with respect to a building (or interest  
 15           therein) during the compliance period with  
 16           respect to such building shall not expire  
 17           before the expiration of 3 years after the  
 18           end of such compliance period.

19           “(ii) ASSESSMENT.—Such deficiency  
 20           may be assessed before the expiration of  
 21           the 3-year period referred to in clause (i)  
 22           notwithstanding the provisions of any  
 23           other law or rule of law which would other-  
 24           wise prevent such assessment.”.

25           (b) INFORMATION REPORTING.—

1           (1) IN GENERAL.—Subpart B of part III of  
 2           subchapter A of chapter 61 of such Code (relating  
 3           to information concerning transactions with other  
 4           persons) is amended by inserting after section  
 5           6050T the following new section:

6   **“SEC. 6050U. RETURNS RELATING TO PAYMENT OF LOW-IN-**  
 7                   **COME   HOUSING   CREDIT   REPAYMENT**  
 8                   **AMOUNT.**

9           “(a) REQUIREMENT OF REPORTING.—Every person  
 10          who, at any time during the taxable year, is an owner of  
 11          a building (or an interest therein)—

12               “(1) which is in the compliance period at any  
 13          time during such year, and

14               “(2) with respect to which recapture is required  
 15          by section 42(j),

16          shall, at such time as the Secretary may prescribe, make  
 17          the return described in subsection (b).

18           “(b) FORM AND MANNER OF RETURNS.—A return  
 19          is described in this subsection if such return—

20               “(1) is in such form as the Secretary may pre-  
 21          scribe, and

22               “(2) contains—

23                   “(A) the name, address, and TIN of each  
 24          person who, with respect to such building or in-

1           terest, was formerly an investor in such owner  
2           at any time during the compliance period,

3           “(B) the amount (if any) of any credit re-  
4           capture amount required under section 42(j),  
5           and

6           “(C) such other information as the Sec-  
7           retary may prescribe.

8           “(c) STATEMENTS TO BE FURNISHED TO PERSONS  
9 WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—  
10 Every person required to make a return under subsection  
11 (a) shall furnish to each person whose name is required  
12 to be set forth in such return a written statement show-  
13 ing—

14           “(1) the name and address of the person re-  
15           quired to make such return and the phone number  
16           of the information contact for such person, and

17           “(2) the information required to be shown on  
18           the return with respect to such person.

19 The written statement required under the preceding sen-  
20 tence shall be furnished on or before March 31 of the year  
21 following the calendar year for which the return under  
22 subsection (a) is required to be made.

23           “(d) COMPLIANCE PERIOD.—For purposes of this  
24 section, the term ‘compliance period’ has the meaning  
25 given such term by section 42(i).”.

1 (2) ASSESSABLE PENALTIES.—

2 (A) Subparagraph (B) of section  
3 6724(d)(1) of such Code (relating to defini-  
4 tions) is amended by redesignating clauses (xiii)  
5 through (xviii) as clauses (xiv) through (xix),  
6 respectively, and by inserting after clause (xii)  
7 the following new clause:

8 “(xiii) section 6050U (relating to re-  
9 turns relating to payment of low-income  
10 housing credit repayment amount),”.

11 (B) Paragraph (2) of section 6724(d) of  
12 such Code is amended by striking “or” at the  
13 end of subparagraph (AA), by striking the pe-  
14 riod at the end of subparagraph (BB) and in-  
15 serting “, or”, and by adding after subpara-  
16 graph (BB) the following new subparagraph:

17 “(CC) section 6050U (relating to returns  
18 relating to payment of low-income housing cred-  
19 it repayment amount).”.

20 (C) CLERICAL AMENDMENT.—The table of  
21 sections for subpart B of part III of subchapter  
22 A of chapter 61 of such Code is amended by in-  
23 serting after the item relating to section 6050T  
24 the following new item:

“Sec. 6050U. Returns relating to payment of low-income housing credit  
repayment amount.”.

1 (c) EFFECTIVE DATE.—

2 (1) IN GENERAL.—The amendments made by  
 3 this section shall apply with respect to any liability  
 4 for the credit recapture amount under section 42(j)  
 5 of the Internal Revenue Code of 1986 that arises  
 6 after the date of the enactment of this Act.

7 (2) SPECIAL RULE FOR LOW-INCOME HOUSING  
 8 BUILDINGS SOLD BEFORE DATE OF ENACTMENT OF  
 9 THIS ACT.—In the case of a building disposed of be-  
 10 fore the date of the enactment of this Act with re-  
 11 spect to which the taxpayer posted a bond (or alter-  
 12 native form of security) under section 42(j) of the  
 13 Internal Revenue Code of 1986 (as in effect before  
 14 the enactment of this Act), the taxpayer may elect  
 15 (by notifying the Secretary of the Treasury in writ-  
 16 ing)—

17 (A) to cease to be subject to the bond re-  
 18 quirements under section 42(j)(6) of such Code,  
 19 as in effect before the enactment of this Act,  
 20 and

21 (B) to be subject to the requirements of  
 22 section 42(j) of such Code, as amended by this  
 23 Act.

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