

“(3) COSTS OF CIVIL ACTIONS.—A person violating this subsection shall also be liable to the United States Government for the costs of a civil action brought to recover any such penalty or damages.”;

(2) by striking subsections (b) and (c) and inserting the following:

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

“(1) the terms ‘knowing’ and ‘knowingly’ mean that a person, with respect to information—

“(A) has actual knowledge of the information;

“(B) acts in deliberate ignorance of the truth or falsity of the information; or

“(C) acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required;

“(2) the term ‘claim’—

“(A) means any request or demand, whether under a contract or otherwise, for money or property and whether or not the United States has title to the money or property, that—

“(i) is presented to an officer, employee, or agent of the United States; or

“(ii) is made to a contractor, grantee, or other recipient if the United States Government—

“(I) provides or has provided any portion of the money or property requested or demanded; or

“(II) will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded; and

“(B) does not include requests or demands for money or property that the Government has paid to an individual as compensation for Federal employment or as an income subsidy with no restrictions on that individual’s use of the money or property; and

“(3) the term ‘obligation’ means a fixed duty, or a contingent duty arising from an express or implied contractual, quasi-contractual, grantor-grantee, licensor-licensee, fee-based, or similar relationship, and the retention of any overpayment.”;

(3) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively; and

(4) in subsection (c), as redesignated, by striking “subparagraphs (A) through (C) of subsection (a)” and inserting “subsection (a)(2)”.

Mr. KAUFMAN. Mr. President, as we struggle to restore growth and hope to our economy, we must continue to repair the weaknesses in our legal and regulatory system weaknesses that contributed to the crisis we face today. A lot of what has happened to our economy was the result of greed and incompetence. But too much of it can be traced to fraud, insider deals, and other acts that are illegal, and to actions that should be illegal.

That is why I am joining today with Senator LEAHY and Senator GRASSLEY to introduce the Fraud Enforcement and Recovery Act of 2009. As we survey the damage to every aspect of our economy from manufacturing to retail, from construction to services we can trace the origins of this disaster to the real estate market and the financing that drove a bubble that finally burst.

We now know that behind the explosion in housing values, and the explosion in the secondary market for mortgages, were misrepresentations, false reporting, insider deals, and other forms of fraud. Many of these actions clearly broke existing financial regula-

tions and consumer protection laws. Others took place in so-called “shadow” financial markets that are outside of our existing laws.

The legislation we are introducing today will provide the Justice Department with the resources it needs to prosecute the crimes that played a part in precipitating the crisis we are now facing. The FBI has been overwhelmed by reports of mortgage fraud, now running at over ten times the pace of a few years ago.

The bill authorizes \$155 million a year for hiring fraud prosecutors and investigators at the Justice Department for 2010 and 2011, including \$65 million a year for 190 additional FBI special agents and more than 200 professionals to fight white collar crime.

In addition, this bill exposes some of the “shadow” financial systems to the fraud laws that apply today in the better regulated sectors of our banking industry. It also extends antifraud protections to the money we are sending out under the Troubled Asset Relief Program and the economic stimulus package. It also amends Federal securities laws to cover fraud schemes involving commodities futures and options, including so-called derivatives involving the mortgage-backed securities that caused such damage to our banking system.

Further, this legislation will strengthen one of the most effective tools to combat waste and fraud in government the False Claims Act. We will need these improvements so that we can protect the taxpayer dollars we are using to respond to the economic crisis.

I hope we can move this legislation quickly. It moves against the root causes of this economic crisis and improves protections for the taxpayer funds we are committing to fight it.

By Mr. DURBIN:

S. 387. A bill to designate the United States courthouse located at 211 South Court Street, Rockford, Illinois, as the “Stanley J. Roszkowski United States Courthouse”; to the Committee on Environment and Public Works.

Mr. DURBIN. Mr. President, today I am pleased to introduce legislation to designate the United States Courthouse at 211 South Court Street, Rockford, IL, as the “Stanley J. Roszkowski United States Courthouse.”

Stanley Roszkowski was raised in Royalton in southern Illinois, one of fifteen children. During World War II, he volunteered as a nose gunner on a B26 bomber, flying over 25 missions in Italy and Germany. After the war he went on to earn his B.A. from the University of Illinois and then his law degree, working as an appliance salesman to pay for school and meeting his wife Catherine along the way.

When he moved to Rockford, he opened up a successful law practice and became involved in his community. He gave up this practice when President Carter appointed him to the bench,

servicing for the next 20 years as a Federal Judge in the Northern District of Illinois. He became known for running a business-like but relaxed courtroom, and was praised by his peers for being extremely knowledgeable, fair and objective, and a gentleman at all times, with a wide breadth of experience and an uncommon sense of decency. As one lawyer put it: “You couldn’t ask for a better trial judge.”

Nobody worked harder than Stanley Roszkowski to make the United States Courthouse in Rockford a reality. He spent 6 years commuting between Rockford and Chicago building up the case load at Rockford and becoming Rockford’s first full time Federal judge. As far back as 1992, he was writing countless letters and paying numerous visits to federal officials in Washington, DC, to make his case. It took many years but he never gave up on his belief that if the Federal courts had a physical presence in Rockford, it would be welcomed and frequently used by the lawyers there. He turned out to be right, and I am pleased that Representative MANZULLO and I could work together to help secure the funding for it.

Whether in a bomber or on the bench, Stanley Roszkowski has dedicated his life to serving his country. I can think of no better way to honor his commitment than by naming this Federal courthouse, which he worked so tirelessly to see built, after him. I hope my colleagues will join me in enacting this tribute to him.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be placed in the RECORD, as follows:

S. 387

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. STANLEY J. ROSZKOWSKI UNITED STATES COURTHOUSE.**

(a) DESIGNATION.—The United States courthouse, located at 211 South Court Street, Rockford, Illinois, shall be known and designated as the “Stanley J. Roszkowski United States Courthouse”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in subsection (a) shall be deemed to be a reference to the “Stanley J. Roszkowski United States Courthouse”.

By Ms. MIKULSKI (for herself, Mr. SPECTER, Mr. LEVIN, Mr. CRAPO, Mr. BOND, Mr. LIEBERMAN, Mr. REED, Mr. KERRY, Mr. ENZI, Ms. COLLINS, Mr. BENNETT, Mr. COBURN, Mr. WHITEHOUSE, Mr. BURR, Ms. SNOWE, Mr. LEAHY, Mr. CARPER, Mr. CARDIN, Mr. HATCH, and Mr. BARRASSO):

S. 388. A bill to extend the termination date for the exemption of returning workers from the numerical limitations for temporary workers; to the Committee on the Judiciary.

Ms. MIKULSKI. Mr. President, today I rise to introduce a bill that is needed by small and seasonal businesses all over the nation. In 2005 I introduced and the Senate overwhelmingly passed legislation to keep these small and seasonal businesses alive. For many years they have relied on the H-2B visa program to meet these needs, but this year they can't get the temporary labor they need because they have been shut out of the H-2B visa program. That program lets them hire temporary foreign workers when no American workers are available.

So today, I join with my colleague Senator SPECTER to introduce legislation that provides a quick and temporary fix to the H-2B problem. The Save our Small and Seasonal Businesses Act of 2009 will help these employers by extending the H-2B returning worker exemption for three years. It does not raise the cap and keeps the limit at 66,000. I urge my colleagues to work with us to pass this legislation quickly to save these businesses and the thousands of American jobs they provide.

Many in this body know about the H-2B crisis—a real crisis to thousands of small and seasonal businesses who face a shortage of workers as they approach their seasons. These small businesses count on the H-2B visa program to keep their businesses afloat. But this year, because the cap was reached so early in the year, many of these businesses will be unable to get the seasonal workers that they need to survive.

Hitting the cap so early will have a great impact on Maryland. We have a lot of summer seasonal businesses in Maryland on the Eastern Shore, in Ocean City or working the Chesapeake Bay. Many of our businesses use the program year after year. They hire all the American workers they can find, but they need additional help to meet seasonal demands. Because the cap will be reached so early this year summer employers face a disadvantage. They can't use the program, so they can't meet their seasonal needs and many will be forced to limit services, lay-off permanent U.S. workers or, worse yet, close their doors.

These are family businesses and small businesses in small communities in Maryland. If the business suffers the whole community suffers. For seafood companies like J.M. Clayton, what they do is more than a business, it's a way of life. Started over a century ago and run by the great grandsons of the founder, J.M. Clayton works the waters of the Chesapeake Bay, supplying crabs, crabmeat and other seafood, including Maryland's famous oysters, to restaurants, markets, and wholesalers all over the nation. It is the oldest working crab processing plant in the world and by employing 70 H-2B workers the company can retain over 50 full time American workers.

But its not just seafood companies that have a long history on the Eastern

Shore. It's companies like S.E.W. Friel Cannery, which began its business over 100 years ago when there were 300 canneries on the Eastern Shore. But now those others are gone and Friel's is the last corn cannery left. Ten years ago, when the cannery could not find local workers, it turned to the new H-2B visa Program. It has used the program every year since, and many workers are repeat users who come each year and then go home after the season. What's important is that having this help each year has not only allowed the company to maintain its American workforce, but it has paved the way for local workers to return to the cannery.

Now these employers can't just turn to the H-2B program whenever they want seasonal workers. First, employers must try to vigorously recruit U.S. workers. These businesses try to hire American workers—they would love to hire American workers. In fact, the H-2B program requires these businesses to prove that they have vigorously tried to recruit American workers. They have to advertise for American workers and give American workers a chance to apply. They have to prove to the Department of Labor that there are no U.S. workers available. Only after that are they allowed to fill seasonal vacancies with H-2B visa workers. The workers that they bring in often participate in the H-2B program year after year. They often work for the same companies. But they cannot and do not stay in the U.S. They return to their home countries, to their families and their U.S. employer must go through the whole visa process again the following year to get them back. That means an employer must prove again to the Department of Labor that they cannot get U.S. workers.

This legislative fix keeps that visa process in place. It's a short-term legislative fix to solve the immediate H-2B visa shortage. It does not take the place of comprehensive immigration reform.

This legislation is a temporary 3 year fix. It exempts returning seasonal workers from the cap. These are workers who have already successfully participated in the H-2B visa Program. They received a visa in one of the past 3 years and have returned home to their families after their seasonal employment with a U.S. company.

Everyone must still play by the rules. Employers must go through the whole visa process, prove they need the seasonal help and only after that are returning employees exempt from the cap. Employees must be those who have left the U.S. and are requesting a new H-2B visa to come back for another season. This new system rewards those who have played by the rules, worked hard and successfully participated in the program. The bill gives a helping hand to businesses by allowing them to retain workers who they have already trained to do their seasonal jobs.

This is a quick and simple fix. It lasts three years. And it does not get in

the way of comprehensive immigration reform.

I worked with my colleagues to get a bill with strong bi-partisan support. A bill that would work.

This bill is realistic. It provides a temporary solution because immediate action is needed to help these small and seasonal businesses stay in business. Yes—we need to help them now. Their seasons start soon. If they don't get seasonal workers this year, there may not be any businesses around next year to help.

Every member of the Senate who has heard from their constituents—whether they are seafood processors, landscapers, resorts, timber companies, fisheries, pool companies or carnivals—knows the urgency in their voices, knows the immediacy of the problem and knows that the Congress must act now to save these businesses. I urge my colleagues to join this effort, support the Save our Small and Seasonal Businesses Act, and push this Congress to fix the problem today.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 388

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Save Our Small and Seasonal Businesses Act of 2009".

**SEC. 2. EXTENSION OF RETURNING WORKER EXEMPTION TO H-2B NUMERICAL LIMITATION.**

(a) IN GENERAL.—Section 214(g)(9)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(9)(A)) is amended to read as follows:

“(A) Subject to subparagraphs (B) and (C), an alien who has already been counted toward the numerical limitation under paragraph (1)(B) during any 1 of the 3 fiscal years immediately prior to the fiscal year of the approved start date of a petition for a non-immigrant worker described in section 101(a)(15)(H)(i)(b) shall not again be counted toward such limitation for the fiscal year for which the petition is approved. Such an alien shall be considered a returning worker.”.

(b) EFFECTIVE DATE; 3-YEAR LIMITATION; SUNSET PROVISION.—The amendment made by subsection (a) shall—

(1) take effect as if enacted on December 1, 2008;

(2) apply only to petitions with an approved start date in fiscal year 2009, 2010, or 2011; and

(3) terminate on the date that is 3 years after the date of the enactment of this Act.

By Mr. BENNETT:

S. 389. A bill to establish a conditional stay of the ban on lead in children's products, and for 'other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. BENNETT. Mr. President, I rise to introduce important legislation today.

Last year, this body passed the Consumer Product Safety Improvement Act. Overall, I think this was a good bill, and will contribute to improving our children's safety.