To amend the Internal Revenue Code of 1986 to provide that the $500,000 exclusion of gain on the sale of a principal residence shall apply to certain sales by a surviving spouse.

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 “Surviving Spouse Fairness Act of 1998”.
SEC. 2. $500,000 EXCLUSION OF GAIN ON SALE OF PRINCIPAL RESIDENCE BY SURVIVING SPOUSE.

(a) In General.—Paragraph (2) of section 121(d) of the Internal Revenue Code of 1986 (relating to property of deceased spouse) is amended to read as follows:

“(2) PROPERTY OF DECEASED SPOUSE.—For purposes of this section, in the case of an unmarried individual whose spouse is deceased on the date of the sale or exchange of property—

“(A) IN GENERAL.—The period such unmarried individual owned and used such property shall include the period such deceased spouse owned and used such property before death.

“(B) $500,000 EXCLUSION IN CERTAIN CASES.—At the election of such an unmarried individual with respect to any property, subsection (b)(1) shall be applied by substituting ‘$500,000’ for ‘$250,000’ if—

“(i) such individual is an unmarried individual at all times after the date of death of such deceased spouse and before the date of the sale or exchange, and

“(ii) the requirements of subparagraphs (B), (C), and (D) of subsection (b)(2) would have been met if such sale or

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exchange occurred on such date of death
(whether or not such requirements were in
effect as of such date of death).

In the case of property with respect to which an
election under this subparagraph is in effect,
the basis of such property in the hands of such
unmarried individual shall be determined with-­
out regard to section 1014.

“(C) Election.—The election under sub-
paragraph (B) shall be made not later than the
due date (including extensions) for the return
of tax imposed by this chapter for the taxable
year in which the sale occurred. Such an elec-
tion, once made, shall take effect as of such
date of death and may not be revoked without
the consent of the Secretary.”

(b) Effective Date.—The amendment made by
this section shall take effect as if included in the amend-
ments made by section 312 of the Taxpayer Relief Act
of 1997.