

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4513

To create jobs by providing targeted tax relief to individuals and small businesses, curb frivolous lawsuits, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 26, 2010

Mr. BUCHANAN introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Financial Services and the Judiciary, 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 create jobs by providing targeted tax relief to individuals and small businesses, curb frivolous lawsuits, 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.**

4 This Act may be cited as the “Job Creation Act of  
5 2010”.

1 **TITLE I—GENERAL PROVISIONS**  
2 **AFFECTING SMALL BUSINESS**

3 **SEC. 101. EXTENSION OF INCREASED EXPENSING FOR**  
4 **SMALL BUSINESSES.**

5 (a) IN GENERAL.—Paragraph (7) of section 179(b)  
6 of the Internal Revenue Code of 1986 is amended—

7 (1) by striking “or 2009” and inserting “2009,  
8 or 2010”, and

9 (2) by striking “AND 2009” in the heading  
10 thereof and inserting “2009, OR 2010”.

11 (b) EFFECTIVE DATE.—The amendments made by  
12 this section shall apply to taxable years beginning after  
13 December 31, 2009.

14 **SEC. 102. ONE YEAR ELIMINATION OF THE CAPITAL GAINS**  
15 **TAX FOR SMALL BUSINESSES.**

16 (a) IN GENERAL.—Subsection (a) of section 1202 of  
17 the Internal Revenue Code of 1986 (relating to partial ex-  
18 clusion for gain from certain small business stock) is  
19 amended by adding at the end the following new para-  
20 graph:

21 “(4) SPECIAL RULE FOR 2010.—In the case of  
22 qualified small business stock acquired after Decem-  
23 ber 31, 2009, and before January 1, 2011—

24 “(A) paragraph (1) shall be applied by  
25 substituting ‘100 percent’ for ‘50 percent’, and

1 “(B) paragraph (2) shall not apply.”.

2 (b) CONFORMING AMENDMENTS.—Section  
3 1202(a)(3) of such Code is amended—

4 (1) by striking “2011” and inserting “2010”,  
5 and

6 (2) by striking “AND 2010” in the heading.

7 (c) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to stock acquired after December  
9 31, 2009.

10 **SEC. 103. UNEMPLOYMENT BENEFITS EXCLUDED FROM IN-**  
11 **COME TAX FOR 2010.**

12 (a) IN GENERAL.—Section 85 of the Internal Rev-  
13 enue Code of 1986 (relating to unemployment compensa-  
14 tion) is amended by adding at the end the following new  
15 subsection:

16 “(d) SPECIAL RULE FOR 2009.—Subsection (a) shall  
17 not apply in the case of any taxable year beginning in  
18 2010.”.

19 (b) EFFECTIVE DATE.—The amendment made by  
20 subsection (a) shall apply to taxable years beginning after  
21 December 31, 2009.

1 **SEC. 104. REDUCTION IN TROUBLED ASSET PURCHASES**  
2 **THAT MAY BE OUTSTANDING AS TARP FUNDS**  
3 **ARE REPAID.**

4 Section 106(d) of the Emergency Economic Stabiliza-  
5 tion Act of 2008 is amended by adding at the end the  
6 following new sentence: “The maximum amount of pur-  
7 chase authority for troubled assets that is authorized to  
8 be outstanding at any one time under section 115 shall  
9 be reduced by the amount of any payment into the Treas-  
10 ury under the preceding sentence after the date of the en-  
11 actment of the Job Creation Act of 2010.”.

12 **TITLE II—FEDERAL RULES OF**  
13 **CIVIL PROCEDURE IMPROVE-**  
14 **MENTS**

15 **SEC. 201. ATTORNEY ACCOUNTABILITY.**

16 Rule 11(e) of the Federal Rules of Civil Procedure  
17 is amended—

18 (1) by amending the first sentence to read as  
19 follows: “If a pleading, motion, or other paper is  
20 signed in violation of this rule, the court, upon mo-  
21 tion or upon its own initiative, shall impose upon the  
22 attorney, law firm, or parties that have violated this  
23 subdivision or are responsible for the violation, an  
24 appropriate sanction, which may include an order to  
25 pay the other party or parties for the reasonable ex-  
26 penses incurred as a direct result of the filing of the

1 pleading, motion, or other paper, that is the subject  
2 of the violation, including a reasonable attorney's  
3 fee.”;

4 (2) in paragraph (1)(A)—

5 (A) by striking “Rule 5” and all that fol-  
6 lows through “corrected.” and inserting “Rule  
7 5.”; and

8 (B) by striking “the court may award”  
9 and inserting “the court shall award”; and

10 (3) in paragraph (2), by striking “shall be lim-  
11 ited to what is sufficient” and all that follows  
12 through the end of the paragraph (including sub-  
13 paragraphs (A) and (B)) and inserting “shall be suf-  
14 ficient to deter repetition of such conduct or com-  
15 parable conduct by others similarly situated, and to  
16 compensate the parties that were injured by such  
17 conduct. The sanction may consist of an order to  
18 pay to the party or parties the amount of the rea-  
19 sonable expenses incurred as a direct result of the  
20 filing of the pleading, motion, or other paper that is  
21 the subject of the violation, including a reasonable  
22 attorney's fee.”.

1 **SEC. 202. APPLICABILITY OF RULE 11 TO STATE CASES AF-**  
2 **FFECTING INTERSTATE COMMERCE.**

3 In any civil action in State court, the court, upon mo-  
4 tion, shall determine within 30 days after the filing of such  
5 motion whether the action substantially affects interstate  
6 commerce. Such court shall make such determination  
7 based on an assessment of the costs to the interstate econ-  
8 omy, including the loss of jobs, were the relief requested  
9 granted. If the court determines such action substantially  
10 affects interstate commerce, the provisions of Rule 11 of  
11 the Federal Rules of Civil Procedure shall apply to such  
12 action.

13 **SEC. 203. PREVENTION OF FORUM-SHOPPING.**

14 (a) IN GENERAL.—Subject to subsection (b), a per-  
15 sonal injury claim filed in State or Federal court may be  
16 filed only in the State and, within that State, in the county  
17 (or if there is no State court in the county, the nearest  
18 county where a court of general jurisdiction is located),  
19 or Federal district in which—

20 (1) the person bringing the claim, including an  
21 estate in the case of a decedent and a parent or  
22 guardian in the case of a minor or incompetent—

23 (A) resides at the time of filing; or

24 (B) resided at the time of the alleged in-  
25 jury;

1           (2) the alleged injury or circumstances giving  
2           rise to the personal injury claim allegedly occurred;

3           (3) the defendant’s principal place of business  
4           is located, if the defendant is a corporation; or

5           (4) the defendant resides, if the defendant is an  
6           individual.

7           (b) DETERMINATION OF MOST APPROPRIATE  
8 FORUM.—If a person alleges that the injury or cir-  
9 cumstances giving rise to the personal injury claim oc-  
10 curred in more than one county (or Federal district), the  
11 trial court shall determine which State and county (or  
12 Federal district) is the most appropriate forum for the  
13 claim. If the court determines that another forum would  
14 be the most appropriate forum for a claim, the court shall  
15 dismiss the claim. Any otherwise applicable statute of limi-  
16 tations shall be tolled beginning on the date the claim was  
17 filed and ending on the date the claim is dismissed under  
18 this subsection.

19           (c) DEFINITIONS.—In this section:

20           (1) The term “personal injury claim”—

21                   (A) means a civil action brought under  
22                   State law by any person to recover for a per-  
23                   son’s personal injury, illness, disease, death,  
24                   mental or emotional injury, risk of disease, or  
25                   other injury, or the costs of medical monitoring

1 or surveillance (to the extent such claims are  
2 recognized under State law), including any de-  
3 rivative action brought on behalf of any person  
4 on whose injury or risk of injury the action is  
5 based by any representative party, including a  
6 spouse, parent, child, or other relative of such  
7 person, a guardian, or an estate;

8 (B) does not include a claim brought as a  
9 class action; and

10 (C) does not include a claim against a  
11 debtor in a case pending under title 11 of the  
12 United States Code that is a personal injury  
13 tort or wrongful death claim within the mean-  
14 ing of section 157(b)(5) of title 28, United  
15 States Code.

16 (2) The term “person” means any individual,  
17 corporation, company, association, firm, partnership,  
18 society, joint stock company, or any other entity, but  
19 not any governmental entity.

20 (3) The term “State” includes the District of  
21 Columbia, the Commonwealth of Puerto Rico, the  
22 United States Virgin Islands, Guam, and any other  
23 territory or possession of the United States.

1 (d) APPLICABILITY.—This section applies to any per-  
2 sonal injury claim filed in Federal or State court on or  
3 after the date of the enactment of this Act.

4 **SEC. 204. RULE OF CONSTRUCTION.**

5 Nothing in section 202 or in the amendments made  
6 by section 201 shall be construed to bar or impede the  
7 assertion or development of new claims or remedies under  
8 Federal, State, or local civil rights law.

9 **SEC. 205. THREE-STRIKES RULE FOR SUSPENDING ATTOR-**  
10 **NEYS WHO COMMIT MULTIPLE RULE 11 VIO-**  
11 **LATIONS.**

12 (a) MANDATORY SUSPENSION.—Whenever a Federal  
13 district court determines that an attorney has violated  
14 Rule 11 of the Federal Rules of Civil Procedure, the court  
15 shall determine the number of times that the attorney has  
16 violated that rule in that Federal district court during that  
17 attorney’s career. If the court determines that the number  
18 is three or more, the Federal district court—

19 (1) shall suspend that attorney from the prac-  
20 tice of law in that Federal district court for one  
21 year; and

22 (2) may suspend that attorney from the prac-  
23 tice of law in that Federal district court for any ad-  
24 ditional period that the court considers appropriate.

1 (b) APPEAL; STAY.—An attorney has the right to ap-  
2 peal a suspension under subsection (a). While such an ap-  
3 peal is pending, the suspension shall be stayed.

4 (c) REINSTATEMENT.—To be reinstated to the prac-  
5 tice of law in a Federal district court after completion of  
6 a suspension under subsection (a), the attorney involved  
7 must first petition the court for reinstatement under such  
8 procedures and conditions as the court may prescribe.

9 **SEC. 206. PRESUMPTION OF RULE 11 VIOLATION FOR RE-**  
10 **PEATEDLY RELITIGATING SAME ISSUE.**

11 Whenever a party presents to a Federal court a  
12 pleading, written motion, or other paper, that includes a  
13 claim or defense that the party has already litigated and  
14 lost on the merits in any forum in final decisions not sub-  
15 ject to appeal on three consecutive occasions, and the  
16 claim or defense, respectively, involves the same plaintiff  
17 and the same defendant on each occasion, there shall be  
18 a rebuttable presumption that the presentation of such  
19 paper is in violation of Rule 11 of the Federal Rules of  
20 Civil Procedure.

21 **SEC. 207. ENHANCED SANCTIONS FOR DOCUMENT DE-**  
22 **STRUCTION IN PENDING FEDERAL COURT**  
23 **PROCEEDINGS.**

24 Whoever willfully and intentionally influences, ob-  
25 structs, or impedes, or attempts to influence, or obstruct,

1 or impede, a pending Federal court proceeding through  
2 the willful and intentional destruction of documents  
3 sought pursuant to the rules of such Federal court pro-  
4 ceeding and highly relevant to that proceeding—

5 (1) shall be punished with mandatory civil sanc-  
6 tions of a degree commensurate with the civil sanc-  
7 tions available under Rule 11 of the Federal Rules  
8 of Civil Procedure, in addition to any other civil  
9 sanctions that otherwise apply; and

10 (2) shall be held in contempt of court; and if  
11 an attorney, referred to one or more appropriate  
12 State bar associations for disciplinary proceedings.

13 **SEC. 208. BAN ON CONCEALMENT OF UNLAWFUL CONDUCT.**

14 (a) **IN GENERAL.**—In any Rule 11 of the Federal  
15 Rules of Civil Procedure proceeding, a court may not order  
16 that a court record not be disclosed unless the court makes  
17 a finding of fact that identifies the interest that justifies  
18 the order and determines that interest outweighs any in-  
19 terest in the public health and safety that the court deter-  
20 mines would be served by disclosing the court record.

21 (b) **APPLICABILITY.**—This section applies to any  
22 record formally filed with a court, but shall not include  
23 any records subject to—

24 (1) the attorney-client privilege or any other  
25 privilege recognized under Federal or State law that

1 grants the right to prevent disclosure of certain in-  
2 formation unless the privilege has been waived; or

3 (2) applicable State or Federal laws that pro-  
4 tect the confidentiality of crime victims, including  
5 victims of sexual abuse.

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