

114TH CONGRESS
2D SESSION

S. 2648

To assist entrepreneurs, support development of the creative economy, and encourage international cultural exchange, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 8, 2016

Mr. UDALL introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To assist entrepreneurs, support development of the creative economy, and encourage international cultural exchange, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Comprehensive Resources for Entrepreneurs in the Arts
6 to Transform the Economy Act of 2016” or the “CRE-
7 ATE Act of 2016”.

8 (b) TABLE OF CONTENTS.—The table of contents for
9 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SUPPORT FOR ARTISTS AND ENTREPRENEURS

- Sec. 101. Charitable contributions of certain items created by the taxpayer.
- Sec. 102. Microloan program expansion.
- Sec. 103. SBA business loans for the creative economy.
- Sec. 104. SBA technical assistance programs.
- Sec. 105. Arts-focused economic development.
- Sec. 106. Arts-focused rural development.
- Sec. 107. Expedited adjudication of employer petitions for aliens of extraordinary artistic ability.
- Sec. 108. Disaster support for artists through FEMA.

TITLE II—SUPPORT FOR THE CREATIVE ECONOMY

- Sec. 201. Modification of rules for charitable contributions of fractional gifts.
- Sec. 202. Capital gains tax rate relating to art.

TITLE III—CREATIVE COMMUNITY DEVELOPMENT

- Sec. 301. Artist corps.
- Sec. 302. Community development entities focused on the arts for purposes of the new markets tax credit.
- Sec. 303. Demonstration program on support of local programs that promote creative and performance arts in local economic planning.
- Sec. 304. Clarification of jurisdictional immunity for cultural objects of foreign states.

1 **TITLE I—SUPPORT FOR ARTISTS**
 2 **AND ENTREPRENEURS**

3 **SEC. 101. CHARITABLE CONTRIBUTIONS OF CERTAIN**
 4 **ITEMS CREATED BY THE TAXPAYER.**

5 (a) IN GENERAL.—Subsection (e) of section 170 of
 6 the Internal Revenue Code of 1986 is amended by adding
 7 at the end the following new paragraph:

8 “(8) SPECIAL RULE FOR CERTAIN CONTRIBU-
 9 TIONS OF LITERARY, MUSICAL, OR ARTISTIC COM-
 10 POSITIONS.—

11 “(A) IN GENERAL.—In the case of a quali-
 12 fied artistic charitable contribution—

13 “(i) the amount of such contribution
 14 shall be the fair market value of the prop-

1 erty contributed (determined at the time of
2 such contribution), and

3 “(ii) no reduction in the amount of
4 such contribution shall be made under
5 paragraph (1).

6 “(B) QUALIFIED ARTISTIC CHARITABLE
7 CONTRIBUTION.—For purposes of this para-
8 graph, the term ‘qualified artistic charitable
9 contribution’ means a charitable contribution of
10 any literary, musical, artistic, or scholarly com-
11 position, or similar property, or the copyright
12 thereon (or both), but only if—

13 “(i) such property was created by the
14 personal efforts of the taxpayer making
15 such contribution no less than 18 months
16 prior to such contribution,

17 “(ii) the taxpayer—

18 “(I) has received a qualified ap-
19 praisal of the fair market value of
20 such property in accordance with the
21 regulations under this section, and

22 “(II) attaches to the taxpayer’s
23 income tax return for the taxable year
24 in which such contribution was made
25 a copy of such appraisal,

1 “(iii) the donee is an organization de-
2 scribed in subsection (b)(1)(A),

3 “(iv) the use of such property by the
4 donee is related to the purpose or function
5 constituting the basis for the donee’s ex-
6 emption under section 501 (or, in the case
7 of a governmental unit, to any purpose or
8 function described under subsection (c)),

9 “(v) the taxpayer receives from the
10 donee a written statement representing
11 that the donee’s use of the property will be
12 in accordance with the provisions of clause
13 (iv), and

14 “(vi) the written appraisal referred to
15 in clause (ii) includes evidence of the ex-
16 tent (if any) to which property created by
17 the personal efforts of the taxpayer and of
18 the same type as the donated property is
19 or has been—

20 “(I) owned, maintained, and dis-
21 played by organizations described in
22 subsection (b)(1)(A), and

23 “(II) sold to or exchanged by
24 persons other than the taxpayer,

1 donee, or any related person (as de-
2 fined in section 465(b)(3)(C)).

3 “(C) MAXIMUM DOLLAR LIMITATION; NO
4 CARRYOVER OF INCREASED DEDUCTION.—The
5 increase in the deduction under this section by
6 reason of this paragraph for any taxable year—

7 “(i) shall not exceed the artistic ad-
8 justed gross income of the taxpayer for
9 such taxable year, and

10 “(ii) shall not be taken into account in
11 determining the amount which may be car-
12 ried from such taxable year under sub-
13 section (d).

14 “(D) ARTISTIC ADJUSTED GROSS IN-
15 COME.—For purposes of this paragraph, the
16 term ‘artistic adjusted gross income’ means
17 that portion of the adjusted gross income of the
18 taxpayer for the taxable year attributable to—

19 “(i) income from the sale or use of
20 property created by the personal efforts of
21 the taxpayer which is of the same type as
22 the donated property, and

23 “(ii) income from teaching, lecturing,
24 performing, or similar activity with respect
25 to property described in clause (i).

1 “(E) PARAGRAPH NOT TO APPLY TO CER-
2 TAIN CONTRIBUTIONS.—Subparagraph (A) shall
3 not apply to any charitable contribution of any
4 letter, memorandum, or similar property which
5 was written, prepared, or produced by or for an
6 individual while the individual is an officer or
7 employee of any person (including any govern-
8 ment agency or instrumentality) unless such
9 letter, memorandum, or similar property is en-
10 tirely personal.

11 “(F) COPYRIGHT TREATED AS SEPARATE
12 PROPERTY FOR PARTIAL INTEREST RULE.—In
13 the case of a qualified artistic charitable con-
14 tribution, the tangible literary, musical, artistic,
15 or scholarly composition, or similar property
16 and the copyright on such work shall be treated
17 as separate properties for purposes of this para-
18 graph and subsection (f)(3).”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall apply to contributions made after the
21 date of the enactment of this Act in taxable years ending
22 after such date.

1 **SEC. 102. MICROLOAN PROGRAM EXPANSION.**

2 Section 7(m)(6) of the Small Business Act (15
3 U.S.C. 636(m)(6)) is amended by adding at the end the
4 following:

5 “(F) LOAN CRITERIA FOR ARTISTS AND
6 ARTS ENTREPRENEURS.—The Administration,
7 in consultation with eligible intermediaries,
8 shall develop loan criteria to ensure that small
9 business concerns owned and controlled by art-
10 ists and small business concerns that support
11 the creative economy receive loan proceeds
12 under this subsection.”.

13 **SEC. 103. SBA BUSINESS LOANS FOR THE CREATIVE ECON-**
14 **OMY.**

15 Section 7(a) of the Small Business Act (15 U.S.C.
16 636(a)) is amended by adding at the end the following:

17 “(35) CREATIVE ECONOMY.—In providing as-
18 sistance under this subsection, the Administration
19 shall develop procedures to evaluate the business
20 proposals and business plans of small business con-
21 cerns that focus on economic development, job cre-
22 ation, and community growth with respect to the
23 creative economy.”.

24 **SEC. 104. SBA TECHNICAL ASSISTANCE PROGRAMS.**

25 Section 21 of the Small Business Act (15 U.S.C. 648)
26 is amended by adding at the end the following:

1 “(n) TECHNICAL ASSISTANCE PROGRAMS FOR ART-
 2 ISTS AND ARTS ENTREPRENEURS.—The Administration,
 3 in consultation with relevant stakeholders, shall develop
 4 technical assistance programs to be carried out by small
 5 business development centers under this subsection that
 6 target the specific needs of artists and arts entre-
 7 preneurs.”.

8 **SEC. 105. ARTS-FOCUSED ECONOMIC DEVELOPMENT.**

9 Title II of the Public Works and Economic Develop-
 10 ment Act of 1965 (42 U.S.C. 3141 et seq.) is amended
 11 by adding at the end the following:

12 **“SEC. 219. ARTS-FOCUSED ECONOMIC DEVELOPMENT.**

13 “(a) DEFINITIONS.—In this section:

14 “(1) BUSINESS INCUBATION PROGRAM.—The
 15 term ‘business incubation program’ means a pro-
 16 gram that—

17 “(A) accelerates the successful develop-
 18 ment of entrepreneurial businesses through
 19 business support resources and services, devel-
 20 oped or orchestrated by incubator management;

21 “(B) is designed to produce successful
 22 businesses; and

23 “(C) provides management guidance, tech-
 24 nical assistance, and consulting designed for

1 young, growing businesses, including by pro-
2 viding—

3 “(i) rental space and flexible leases;

4 “(ii) shared basic business services
5 and equipment;

6 “(iii) technology support services; and

7 “(iv) assistance in obtaining financing
8 necessary for growth of the business.

9 “(2) INCUBATOR.—The term ‘incubator’ means
10 a multitenant facility with on-site management that
11 directs a business incubation program.

12 “(b) ARTS-FOCUSED ECONOMIC DEVELOPMENT.—In
13 providing grants and assistance under this Act (including
14 through the local technical assistance, partnership plan-
15 ning, and comprehensive economic development strategies
16 programs of the Economic Development Administration),
17 the Secretary shall provide to artists and the creative
18 economy support through traditional economic develop-
19 ment tools, including—

20 “(1) incubators; and

21 “(2) economic development planning and tech-
22 nical assistance.”.

1 **SEC. 106. ARTS-FOCUSED RURAL DEVELOPMENT.**

2 The Consolidated Farm and Rural Development Act
3 (7 U.S.C. 1921 et seq.) is amended by adding at the end
4 the following:

5 **“Subtitle J—Arts-Focused**
6 **Economic Development**

7 **“SEC. 386A. ARTS-FOCUSED ECONOMIC DEVELOPMENT.**

8 “(a) DEFINITIONS.—In this section:

9 “(1) BUSINESS INCUBATION PROGRAM.—The
10 term ‘business incubation program’ means a pro-
11 gram that—

12 “(A) accelerates the successful develop-
13 ment of entrepreneurial businesses through
14 business support resources and services, devel-
15 oped or orchestrated by incubator management;

16 “(B) is designed to produce successful
17 businesses; and

18 “(C) provides management guidance, tech-
19 nical assistance, and consulting designed for
20 young, growing businesses, including by pro-
21 viding—

22 “(i) rental space and flexible leases;

23 “(ii) shared basic business services
24 and equipment;

25 “(iii) technology support services; and

1 “(iv) assistance in obtaining financing
2 necessary for growth of the business.

3 “(2) INCUBATOR.—The term ‘incubator’ means
4 a multitenant facility with on-site management that
5 directs a business incubation program.

6 “(b) ARTS-FOCUSED ECONOMIC DEVELOPMENT.—In
7 providing grants and assistance under this Act (including
8 through the local technical assistance, partnership plan-
9 ning, and comprehensive economic development strategies
10 programs of the Office of Rural Development), the Sec-
11 retary, acting through the Under Secretary for Rural De-
12 velopment, shall provide to artists and the creative econ-
13 omy support through traditional economic development
14 tools, including—

15 “(1) incubators; and

16 “(2) economic development planning and tech-
17 nical assistance.”.

18 **SEC. 107. EXPEDITED ADJUDICATION OF EMPLOYER PETI-**
19 **TIONS FOR ALIENS OF EXTRAORDINARY AR-**
20 **TISTIC ABILITY.**

21 Section 214(c)(6)(D) of the Immigration and Nation-
22 ality Act (8 U.S.C. 1184(c)(6)(D)) is amended—

23 (1) in the first sentence, by inserting “(i)” be-
24 fore “Any person”;

25 (2) in the second sentence—

1 (A) by striking “Once” and inserting “Ex-
2 cept as provided in clause (ii), once”; and

3 (B) by striking “Attorney General shall”
4 and inserting “Secretary of Homeland Security
5 shall”;

6 (3) in the third sentence, by striking “The At-
7 torney General” and inserting “The Secretary”; and

8 (4) by adding at the end the following:

9 “(ii) The Secretary of Homeland Security shall adju-
10 dicate each petition for an alien with extraordinary ability
11 in the arts (as described in clause (i) of section
12 101(a)(15)(O)), an alien accompanying such an alien (as
13 described in clause (ii) or (iii) of such section), or an alien
14 described in section 101(a)(15)(P) (other than an alien
15 described in section 214(c)(4)(A) (relating to athletes))
16 not later than 30 days after—

17 “(I) the date on which the petitioner submits
18 the petition with a written advisory opinion, letter of
19 no objection, or request for a waiver; or

20 “(II) the date on which the 15-day period de-
21 scribed in clause (i) has expired, if the petitioner has
22 had an opportunity, as appropriate, to supply rebut-
23 tal evidence.

24 “(iii) If a petition described in clause (ii) is not adju-
25 dicated before the end of the 30-day period described in

1 clause (ii) and the petitioner is an arts organization de-
2 scribed in paragraph (3), (5), or (6) of section 501(c) of
3 the Internal Revenue Code of 1986 and exempt from tax
4 under section 501(a) of such Code for the taxable year
5 preceding the calendar year in which the petition is sub-
6 mitted, or an individual or entity petitioning primarily on
7 behalf of such an organization, the Secretary of Homeland
8 Security shall provide the petitioner with the premium-
9 processing services referred to in section 286(u), without
10 a fee.”.

11 **SEC. 108. DISASTER SUPPORT FOR ARTISTS THROUGH**
12 **FEMA.**

13 (a) IN GENERAL.—The President, acting through the
14 Administrator of the Federal Emergency Management
15 Agency, shall promulgate rules to ensure that expenses in-
16 curred, as a result of a major disaster or emergency, by
17 a self-employed or freelance worker, including a craft art-
18 ist, fine artist, designer, literary artist, performing artist,
19 or musician, to repair or replace tools needed by the self-
20 employed or freelance worker are considered eligible ex-
21 penses for assistance under section 408 of the Robert T.
22 Stafford Disaster Relief and Emergency Assistance Act
23 (42 U.S.C. 5174).

24 (b) REQUIREMENT.—The rules promulgated under
25 subsection (a) may not require, as a condition of receiving

1 such assistance under section 408 of the Robert T. Staf-
 2 ford Disaster Relief and Emergency Assistance Act (42
 3 U.S.C. 5174), an applicant—

4 (1) to apply or be declined for assistance from
 5 the Small Business Administration; or

6 (2) to demonstrate that assistance received
 7 from the Small Business Administration does not
 8 satisfy the total necessary expenses or serious needs
 9 arising out of a major disaster or emergency.

10 **TITLE II—SUPPORT FOR THE** 11 **CREATIVE ECONOMY**

12 **SEC. 201. MODIFICATION OF RULES FOR CHARITABLE CON-** 13 **TRIBUTIONS OF FRACTIONAL GIFTS.**

14 (a) INCOME TAX.—

15 (1) ADDITIONAL REQUIREMENTS FOR DEDUC-
 16 TION.—Paragraph (1) of section 170(o) of the Inter-
 17 nal Revenue Code of 1986 is amended to read as fol-
 18 lows:

19 “(1) DENIAL OF DEDUCTION IN CERTAIN
 20 CASES.—

21 “(A) IN GENERAL.—No deduction shall be
 22 allowed for a contribution of an undivided por-
 23 tion of a taxpayer’s entire interest in tangible
 24 personal property unless—

1 “(i) all interests in the property are
2 held immediately before such contribution
3 by—

4 “(I) the taxpayer, or

5 “(II) the taxpayer and the donee,

6 “(ii) in the case of an initial fractional
7 contribution, such contribution is an undi-
8 vided portion of not less than 10 percent
9 of all interests in the property,

10 “(iii) in the case of an initial frac-
11 tional contribution, the contribution is
12 made pursuant to a written binding con-
13 tract which requires the donor—

14 “(I) to contribute not less than
15 20 percent of all interests in the prop-
16 erty on or before the date that is 11
17 years after the date of the initial frac-
18 tional contribution, and

19 “(II) to contribute all of the in-
20 terests in such property to the donee
21 (or if such donee is no longer in exist-
22 ence, to any person described in sub-
23 section (c)) on or before the earlier of
24 the date of the death of the donor or
25 the date which is 20 years after the

1 date of the initial fractional contribu-
2 tion, and

3 “(iv) if the value of the tangible per-
4 sonal property with respect to which the
5 undivided portion of the taxpayer’s entire
6 interest relates is greater than \$1,000,000
7 (or such greater amount as determined by
8 the Secretary), the taxpayer attaches to
9 the return for the taxable year in which
10 such contribution is made a statement of
11 value obtained from the Internal Revenue
12 Service.

13 In the case of a donor who dies before the date
14 which is 20 years after the date of the initial
15 fractional contribution, clause (iii)(II) is satis-
16 fied with respect to such initial fractional con-
17 tribution if the donor’s will specifies that all of
18 the interests in such property will be contrib-
19 uted to the donee before such date.

20 “(B) EXCEPTIONS.—The Secretary may,
21 by regulation, provide for exceptions to sub-
22 paragraph (A)(i) in cases where all persons who
23 hold an interest in the property make propor-
24 tional contributions of an undivided portion of
25 the entire interest held by such persons. Such

1 regulations may modify the requirements of
2 clauses (ii) and (iii) of subparagraph (A) to the
3 extent necessary to carry out the purposes of
4 this subparagraph.”.

5 (2) VALUATION OF SUBSEQUENT GIFTS.—Para-
6 graph (2) of section 170(o) of such Code is amended
7 to read as follows:

8 “(2) VALUATION OF SUBSEQUENT GIFTS.—In
9 the case of any additional contribution, the fair mar-
10 ket value of such contribution shall be determined by
11 using a certified appraisal from the Art Advisory
12 Panel of the Commissioner of Internal Revenue.”.

13 (3) RECAPTURE OF DEDUCTION.—Paragraph
14 (3) of section 170(o) of such Code is amended—

15 (A) by redesignating subparagraph (B) as
16 subparagraph (C), and

17 (B) by striking subparagraph (A) and in-
18 serting the following:

19 “(A) RECAPTURE.—The Secretary shall
20 provide for the recapture of the amount of any
21 deduction allowed under this section (plus inter-
22 est) with respect to any contribution of an undi-
23 vided portion of a taxpayer’s entire interest in
24 tangible personal property—

1 “(i) in any case in which the donor
2 fails to meet the requirements described in
3 paragraph (1)(A)(iii), and

4 “(ii) in any case where such property
5 is not in the physical possession of the
6 donee (other than in the case of art which
7 is fragile or unwieldy) and used in a use
8 which is related to a purpose or function
9 constituting the basis for the donee organi-
10 zation’s exemption under section 501 dur-
11 ing any applicable period for a period of
12 time which bears substantially the same
13 ratio to 5 years as—

14 “(I) the percentage of the undi-
15 vided interest of the donee in the
16 property (determined on the day after
17 such contribution was made), bears to

18 “(II) 100 percent.

19 “(B) APPLICABLE PERIOD.—For purposes
20 of subparagraph (A), the applicable period
21 means—

22 “(i) the 5-year period beginning on
23 the date of the later of the initial fractional
24 contribution, and

1 “(ii) each subsequent 5-year period
2 occurring during the 20-year period de-
3 scribed in paragraph (1)(A)(iii)(II).”.

4 (b) GIFT TAX.—

5 (1) ADDITIONAL REQUIREMENTS FOR DEDUC-
6 TION.—Paragraph (1) of section 2522(e) of the In-
7 ternal Revenue Code of 1986 is amended to read as
8 follows:

9 “(1) DENIAL OF DEDUCTION IN CERTAIN
10 CASES.—

11 “(A) IN GENERAL.—No deduction shall be
12 allowed for a contribution of an undivided por-
13 tion of a taxpayer’s entire interest in tangible
14 personal property unless—

15 “(i) all interests in the property are
16 held immediately before such contribution
17 by—

18 “(I) the taxpayer, or

19 “(II) the taxpayer and the donee,

20 “(ii) in the case of an initial fractional
21 contribution, such contribution is an undi-
22 vided portion of not less than 10 percent
23 of all interests in the property,

24 “(iii) in the case of an initial frac-
25 tional contribution, the contribution is

1 made pursuant to a written binding con-
2 tract which requires the donor—

3 “(I) to contribute not less than
4 20 percent of all interests in the prop-
5 erty on or before the date that is 11
6 years after the date of the initial frac-
7 tional contribution, and

8 “(II) to contribute all of the in-
9 terests in such property to the donee
10 (or if such donee is no longer in exist-
11 ence, to any person described in sub-
12 section (c)) on or before the earlier of
13 the date of the death of the donor or
14 the date which is 20 years after the
15 date of the initial fractional contribu-
16 tion, and

17 “(iv) if the value of the tangible per-
18 sonal property with respect to which the
19 undivided portion of the taxpayer’s entire
20 interest relates is greater than \$1,000,000
21 (or such greater amount as determined by
22 the Secretary), the taxpayer attaches to
23 the return for the taxable year in which
24 such contribution is made a statement of

1 value obtained from the Internal Revenue
2 Service.

3 In the case of a donor who dies before the date
4 which is 20 years after the date of the initial
5 fractional contribution, clause (iii)(II) is satis-
6 fied with respect to such initial fractional con-
7 tribution if the donor's will specifies that all of
8 the interests in such property will be contrib-
9 uted to the donee before such date.

10 “(B) EXCEPTIONS.—The Secretary may,
11 by regulation, provide for exceptions to sub-
12 paragraph (A)(i) in cases where all persons who
13 hold an interest in the property make propor-
14 tional contributions of an undivided portion of
15 the entire interest held by such persons. Such
16 regulations may modify the requirements of
17 clauses (ii) and (iii) of subparagraph (A) to the
18 extent necessary to carry out the purposes of
19 this subparagraph.”.

20 (2) RECAPTURE OF DEDUCTION.—Paragraph
21 (2) of section 2522(e) of such Code is amended—

22 (A) by redesignating subparagraphs (B)
23 and (C) as subparagraphs (C) and (D), respec-
24 tively, and

1 (B) by striking subparagraph (A) and in-
2 serting the following:

3 “(A) RECAPTURE.—The Secretary shall
4 provide for the recapture of the amount of any
5 deduction allowed under this section (plus inter-
6 est) with respect to any contribution of an undi-
7 vided portion of a taxpayer’s entire interest in
8 tangible personal property—

9 “(i) in any case in which the donor
10 fails to meet the requirements described in
11 paragraph (1)(A)(iii), and

12 “(ii) in any case where such property
13 is not in the physical possession of the
14 donee (other than in the case of art which
15 is fragile or unwieldy) and used in a use
16 which is related to a purpose or function
17 constituting the basis for the donee organi-
18 zation’s exemption under section 501 dur-
19 ing any applicable period for a period of
20 time which bears substantially the same
21 ratio to 5 years as—

22 “(I) the percentage of the undi-
23 vided interest of the donee in the
24 property (determined on the day after
25 such contribution was made), bears to

1 “(II) 100 percent.

2 “(B) APPLICABLE PERIOD.—For purposes
3 of subparagraph (A), the applicable period
4 means—

5 “(i) the 5-year period beginning on
6 the date of the later of the initial fractional
7 contribution, and

8 “(ii) each subsequent 5-year period
9 occurring during the 20-year period de-
10 scribed in paragraph (1)(A)(iii)(II).”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to contributions and gifts made
13 after the date of the enactment of this Act.

14 (d) TRANSITION RULE.—In the case of any addi-
15 tional contribution (as defined in section 170(o)(4) of the
16 Internal Revenue Code of 1986) with respect to an initial
17 fractional contribution (as defined in such section) made
18 after August 17, 2006, and before the date of the enact-
19 ment of this Act—

20 (1) except for purposes of determining the fair
21 market value of such contribution under section
22 170(o)(2) of the Internal Revenue Code of 1986 (as
23 amended by this Act), such contribution shall be
24 treated as an initial fractional contribution (as so

1 defined) subject to the amendments made by this
 2 section, and

3 (2) sections 170(o)(3)(A)(i) and
 4 2522(e)(3)(A)(i) of such Code (as in effect before
 5 the date of the enactment of this Act) shall not
 6 apply with respect to any prior contribution of an
 7 undivided portion of the taxpayer's interest in the
 8 property.

9 **SEC. 202. CAPITAL GAINS TAX RATE RELATING TO ART.**

10 (a) EXCLUSION FROM 28-PERCENT RATE GAIN.—
 11 Subparagraph (A) of section 1(h)(5) of the Internal Rev-
 12 enue Code of 1986 is amended by striking “paragraph
 13 (3)” and inserting “paragraph (2)(A) or (3)”.

14 (b) EFFECTIVE DATE.—The amendment made by
 15 this section shall apply to taxable years beginning after
 16 the date of the enactment of this Act.

17 **TITLE III—CREATIVE**
 18 **COMMUNITY DEVELOPMENT**

19 **SEC. 301. ARTIST CORPS.**

20 (a) CORPS.—Section 122(a) of the National and
 21 Community Service Act of 1990 (42 U.S.C. 12572(a)) is
 22 amended by adding at the end the following:

23 “(6) ARTIST CORPS.—

24 “(A) IN GENERAL.—The recipient may
 25 carry out national service programs through an

1 Artist Corps that identifies and meets unmet
2 needs within communities through artistic ac-
3 tivities such as those described in subparagraph
4 (B) and improves performance on the indicators
5 described in subparagraph (C).

6 “(B) ACTIVITIES.—An Artist Corps de-
7 scribed in this paragraph may carry out activi-
8 ties such as—

9 “(i) providing skilled visual and per-
10 formance artists to address community
11 needs through artistic activities in edu-
12 cation, health care, and therapeutic set-
13 tings, and in other settings in the commu-
14 nity; or

15 “(ii) providing other artistic activities,
16 addressing unmet community needs, that
17 the Corporation may designate.

18 “(C) ARTIST CORPS INDICATORS.—The in-
19 dicators for a corps program described in this
20 paragraph are—

21 “(i) any indicator relating to meeting
22 critical needs that the Corporation estab-
23 lishes; or

24 “(ii) any local indicator (applicable to
25 a particular recipient or community and on

1 which an improvement in performance is
2 needed) relating to meeting critical needs,
3 that is approved by the Corporation or a
4 State Commission.”.

5 (b) CONFORMING AMENDMENTS.—Section 122 of
6 such Act is amended—

7 (1) in subsection (b)(3), by striking “or (5)”
8 and inserting “(5), or (6)”; and

9 (2) in subsection (c)(1), in the matter preceding
10 subparagraph (A), by striking “through (5)” and in-
11 serting “through (6)”.

12 **SEC. 302. COMMUNITY DEVELOPMENT ENTITIES FOCUSED**
13 **ON THE ARTS FOR PURPOSES OF THE NEW**
14 **MARKETS TAX CREDIT.**

15 (a) IN GENERAL.—Not later than 1 year after the
16 date of the enactment of this Act, the Secretary of the
17 Treasury shall develop and promulgate guidelines for the
18 creation and operation of qualified community develop-
19 ment entities—

20 (1) which will be eligible to be certified as such
21 by the Secretary of the Treasury under section
22 45D(c)(1)(C) of the Internal Revenue Code of 1986;

23 (2) a qualified equity investment in which will,
24 subject to allocation under section 45D(f) of such

1 Code, be eligible for the credit under such section
2 45D; and

3 (3) which will focus on investment in and the
4 development and encouragement of the creative
5 economy in low-income communities.

6 (b) DEFINITIONS.—For purposes of this section, any
7 term used in subsection (a) which is also used in section
8 45D of the Internal Revenue Code of 1986 has the same
9 meaning as when used in such section.

10 **SEC. 303. DEMONSTRATION PROGRAM ON SUPPORT OF**
11 **LOCAL PROGRAMS THAT PROMOTE CRE-**
12 **ATIVE AND PERFORMANCE ARTS IN LOCAL**
13 **ECONOMIC PLANNING.**

14 (a) DEMONSTRATION PROGRAM REQUIRED.—The
15 Secretary of Commerce shall establish a demonstration
16 program to assess the feasibility and advisability of pro-
17 viding support to covered programs to promote creative
18 and performing arts in the economic planning of local gov-
19 ernments.

20 (b) COVERED PROGRAMS.—For purposes of the dem-
21 onstration program required by subsection (a), a covered
22 program is any program that—

23 (1) was in effect on the day before the date of
24 the enactment of this Act; and

1 (2) the Secretary considers part of an art com-
2 munity.

3 **SEC. 304. CLARIFICATION OF JURISDICTIONAL IMMUNITY**
4 **FOR CULTURAL OBJECTS OF FOREIGN**
5 **STATES.**

6 (a) IN GENERAL.—Section 1605 of title 28, United
7 States Code, is amended by adding at the end the fol-
8 lowing:

9 “(h) JURISDICTIONAL IMMUNITY FOR CERTAIN ART
10 EXHIBITION ACTIVITIES.—

11 “(1) IN GENERAL.—If—

12 “(A) a work is imported into the United
13 States from any foreign country pursuant to an
14 agreement that provides for the temporary exhi-
15 bition or display of such work entered into be-
16 tween a foreign state that is the owner or cus-
17 todian of such work and the United States or
18 one or more cultural or educational institutions
19 within the United States;

20 “(B) the President, or the President’s des-
21 ignee, has determined, in accordance with sub-
22 section (a) of Public Law 89–259 (22 U.S.C.
23 2459(a)), that such work is of cultural signifi-
24 cance and the temporary exhibition or display
25 of such work is in the national interest; and

1 “(C) the notice thereof has been published
2 in accordance with subsection (a) of Public Law
3 89–259 (22 U.S.C. 2459(a)),
4 any activity in the United States of such foreign
5 state, or of any carrier, that is associated with the
6 temporary exhibition or display of such work shall
7 not be considered to be commercial activity by such
8 foreign state for purposes of subsection (a)(3).

9 “(2) NAZI-ERA CLAIMS.—Paragraph (1) shall
10 not apply in any case asserting jurisdiction under
11 subsection (a)(3) in which rights in property taken
12 in violation of international law are in issue within
13 the meaning of that subsection and—

14 “(A) the property at issue is the work de-
15 scribed in paragraph (1);

16 “(B) the action is based upon a claim that
17 such work was taken in connection with the
18 acts of a covered government during the cov-
19 ered period;

20 “(C) the court determines that the activity
21 associated with the exhibition or display is com-
22 mercial activity, as that term is defined in sec-
23 tion 1603(d); and

24 “(D) a determination under subparagraph
25 (C) is necessary for the court to exercise juris-

1 diction over the foreign state under subsection
2 (a)(3).

3 “(3) DEFINITIONS.—For purposes of this sub-
4 section—

5 “(A) the term ‘work’ means a work of art
6 or other object of cultural significance;

7 “(B) the term ‘covered government’
8 means—

9 “(i) the Government of Germany dur-
10 ing the covered period;

11 “(ii) any government in any area in
12 Europe that was occupied by the military
13 forces of the Government of Germany dur-
14 ing the covered period;

15 “(iii) any government in Europe that
16 was established with the assistance or co-
17 operation of the Government of Germany
18 during the covered period; and

19 “(iv) any government in Europe that
20 was an ally of the Government of Germany
21 during the covered period; and

22 “(C) the term ‘covered period’ means the
23 period beginning on January 30, 1933, and
24 ending on May 8, 1945.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to any civil action commenced on
3 or after the date of the enactment of this Act.

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