

March 14, 2001

LEGISLATION TO CHANGE THE INTERNAL REVENUE CODE'S COST RECOVERY RULES

**HON. E. CLAY SHAW, JR.**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 2001

Mr. SHAW. Mr. Speaker, as a Member of Congress, I am continually seeking sound policy changes that will make and keep our economy productive, create jobs and improve the overall quality of life for Americans. It is my belief that an important element of a productive economy is modern, efficient and environmentally responsible space for Americans to work, shop and recreate. In order to create and maintain such space, a building owner must regularly change, reconfigure or somehow improve office, retail and commercial space to meet the needs of new and existing tenants.

I believe that the Internal Revenue Code's cost recovery rules associated with leasehold improvements are an impediment for building owners needing to make such improvements. Therefore, I am pleased to introduce this legislation to change the cost recovery rules associated with leasehold improvements.

Simply stated, this legislation would allow building owners to depreciate specified building improvements using a 10-year depreciable life, rather than the 39 years required by current law, thereby matching more closely the expenses incurred to construct these improvements with the income the improvements generate under the lease.

To qualify under the legislation, the improvement must be constructed by a lessor or lessee in the tenant-occupied space. In an effort to ensure that the legislation is as cost efficient as possible, improvements constructed in common areas of a building, such as elevators, escalators and lobbies, would not qualify; nor would improvements made to new buildings.

Office, retail, or other commercial rental real estate is typically reconfigured, changed or somehow improved on a regular basis to meet the needs of new and existing tenants. Internal walls, ceilings, partitions, plumbing, lighting and finish each are elements that might be the type of improvement made within a building to accommodate a tenant's requirements, and thereby ensure that the work or shopping space is a modern, efficient, and environmentally responsible as possible.

Unfortunately, today's depreciation rules do not differentiate between the economic useful life of a building improvement—which typically corresponds with a tenant's lease-term—and the life of the overall building structure. The result is that current tax law dictates a depreciable life for leasehold improvements of 39 years—the depreciable life for the entire building—even though most commercial leases typically run for a period of 7 to 10 years. As a result, after-tax cost of reconfiguring, or building out, office, retail, or other commercial space to accommodate new tenants or modernizing workplace is artificially high. This hinders urban reinvestment and construction job opportunities as improvements are delayed or not undertaken at all.

EXTENSIONS OF REMARKS

Additionally, a widespread shift to more energy-efficient, environmentally sound building elements is discouraged by the current tax system because of their typically higher expense. If a greater conservation potential of energy-efficient lighting were to be realized, the demand for the equivalent of one hundred 1,000-megawatt powerplants could be eliminated, with corresponding reductions in air pollution and global warming.

Reform of the cost recovery rules for leasehold improvements has been long overdue. In the 106th Congress, this bill enjoyed widespread support with 144 Members co-sponsoring it. This legislation should be enacted this year. This would acknowledge the fact that improvements constructed for one tenant are rarely suitable for another, and that when a tenant leaves, the space is typically build-out over again for a new tenant. It is important to note that prior to 1981 our tax laws allowed these improvement costs to be deducted over the life of the lease. Subsequent legislation, however, abandoned this policy as part of a move to simplify and shorten building depreciation rules in general to 15 years. Given that buildings are now required to be depreciated over 39 years, it is time to face economic reality and reinstate a separate depreciation period for building improvements to tenant occupied space.

Mr. Speaker, I urge my fellow members to review and support this important job producing, urban revitalization legislation. I look forward to working with my colleagues on the Ways and Means Committee to enact this bill.

THE INTRODUCTION OF THE  
"ANTI-SPAMMING ACT OF 2001"

**HON. BOB GOODLATTE**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 2001

Mr. GOODLATTE. Mr. Speaker, unsolicited commercial e-mail, such as advertisements, solicitations or chain letters, is the "junk mail" of the information age. When unwanted mail is hand delivered to your home or post office box, you can ask the postmaster not to deliver it. When telemarketers call you at home you may ask to be taken off their solicitation list. But currently, there is no mechanism to prevent unwanted e-mail.

Jupiter Communications reported that in 1999 the average consumer received 40 pieces of spam. By 2005, Jupiter estimates, the total is likely to soar to 1,600. These numbers are truly astounding. Unsolicited e-mail messages burden consumers by slowing down their e-mail connections, and cause big problems for the small business owner who is trying to compete with larger companies and larger servers.

Consumers are not the only ones victimized by spam. In recent instances, unsolicited e-mail transmissions have paralyzed small Internet Service Providers (ISPs) by flooding their servers with unwanted e-mail. This has the potential to do great damages to small ISP companies and the communities they serve.

Currently, ISPs are developing programs that require the individual sending the unsol-

ited message to include a valid e-mail address, which can then be replied to in order to request that no further transmissions be sent. Under these programs, once the individual sending the original e-mail receives a request to remove an address from their distribution list, they are required to do so. However, offending spammers get around this requirement by using the e-mail address of an unsuspecting user to spam others.

To address this problem, I am introducing legislation to give law enforcement the tools they need to prosecute individuals who send unsolicited e-mail that clog up consumers' inboxes: the Anti-Spamming Act of 2001.

The Anti-Spamming Act would amend 18 U.S.C. § 1030 (which addresses criminal fraud in connection with computers) in several respects to address fraudulent unsolicited electronic mail. It would add to the substantive conduct prohibited by 18 U.S.C. § 1030(a), both the intentional and unauthorized sending of unsolicited e-mail that is known by the sender to contain information that falsely identifies the source or routing information of the e-mail, and the intentional sale or distribution of any computer program designed to conceal the source or routing information of such e-mail.

This legislation would subject those who commit such prohibited conduct to a criminal fine equal to \$15,000 per violation or \$10 per message per violation, whichever is greater, plus the actual monetary loss suffered by victims of the conduct. In addition, prohibited conduct that results in damage to a "protected computer" (as defined in 18 U.S.C. § 1030(e)(2)) would be punishable by a fine under Title 18 or by imprisonment for up to one year.

I would also like to thank Representative HEATHER WILSON for her tireless efforts to address this issue. Representative WILSON should be commended for bringing the problem of spam to the forefront of public debate. I look forward to working with her to achieve our common goal of reducing the burden of unwanted e-mail on consumers and Internet Service Providers.

Legislation addressing the problem of unsolicited commercial e-mail is greatly needed to protect consumers and Internet Service Providers from victimization by spam. I urge my colleagues to support this much needed legislation.

TRIBUTE TO FRANK MARSH

**HON. DOUG BEREUTER**

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 2001

Mr. BEREUTER. Mr. Speaker, this week Nebraskans said good-bye to Frank Marsh, our former lieutenant governor, secretary of state and state treasurer. Frank was a loyal Nebraskan, a dedicated public servant, and an enthusiastic Republican. He was elected secretary of state in 1953 and served in that position for 17 years. He was lieutenant governor from 1971 to 1975. He served twice as state treasurer. He was State director of the Farmers Home Administration. In all, he devoted nearly 40 years of his life to public service.