



Sen. Christine Radogno

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1 AMENDMENT TO SENATE BILL 405

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 405, AS AMENDED,  
3 with reference to page and line numbers of Senate Amendment No.  
4 1, on page 1, line 5, by replacing "Sections 201 and 304" with  
5 "Sections 201, 207, and 304"; and

6 on page 36, immediately below line 12, by inserting the  
7 following:

8 "(35 ILCS 5/207) (from Ch. 120, par. 2-207)  
9 Sec. 207. Net Losses.

10 (a) If after applying all of the (i) modifications provided  
11 for in paragraph (2) of Section 203(b), paragraph (2) of  
12 Section 203(c) and paragraph (2) of Section 203(d) and (ii) the  
13 allocation and apportionment provisions of Article 3 of this  
14 Act and subsection (c) of this Section, the taxpayer's net  
15 income results in a loss;

16 (1) for any taxable year ending prior to December 31,

1 1999, such loss shall be allowed as a carryover or  
2 carryback deduction in the manner allowed under Section 172  
3 of the Internal Revenue Code;

4 (2) for any taxable year ending on or after December  
5 31, 1999 and prior to December 31, 2003, such loss shall be  
6 allowed as a carryback to each of the 2 taxable years  
7 preceding the taxable year of such loss and shall be a net  
8 operating loss carryover to each of the 20 taxable years  
9 following the taxable year of such loss; and

10 (3) for any taxable year ending on or after December  
11 31, 2003, such loss shall be allowed as a net operating  
12 loss carryover to each of the 12 taxable years following  
13 the taxable year of such loss, except as provided in  
14 subsection (d).

15 (a-5) Election to relinquish carryback and order of  
16 application of losses.

17 (A) For losses incurred in tax years ending prior  
18 to December 31, 2003, the taxpayer may elect to  
19 relinquish the entire carryback period with respect to  
20 such loss. Such election shall be made in the form and  
21 manner prescribed by the Department and shall be made  
22 by the due date (including extensions of time) for  
23 filing the taxpayer's return for the taxable year in  
24 which such loss is incurred, and such election, once  
25 made, shall be irrevocable.

26 (B) The entire amount of such loss shall be carried

1 to the earliest taxable year to which such loss may be  
2 carried. The amount of such loss which shall be carried  
3 to each of the other taxable years shall be the excess,  
4 if any, of the amount of such loss over the sum of the  
5 deductions for carryback or carryover of such loss  
6 allowable for each of the prior taxable years to which  
7 such loss may be carried.

8 (b) Any loss determined under subsection (a) of this  
9 Section must be carried back or carried forward in the same  
10 manner for purposes of subsections (a) and (b) of Section 201  
11 of this Act as for purposes of subsections (c) and (d) of  
12 Section 201 of this Act.

13 (c) Notwithstanding any other provision of this Act, for  
14 each taxable year ending on or after December 31, 2008, for  
15 purposes of computing the loss for the taxable year under  
16 subsection (a) of this Section and the deduction taken into  
17 account for the taxable year for a net operating loss carryover  
18 under paragraphs (1), (2), and (3) of subsection (a) of this  
19 Section, the loss and net operating loss carryover shall be  
20 reduced in an amount equal to the reduction to the net  
21 operating loss and net operating loss carryover to the taxable  
22 year, respectively, required under Section 108(b)(2)(A) of the  
23 Internal Revenue Code, multiplied by a fraction, the numerator  
24 of which is the amount of discharge of indebtedness income that  
25 is excluded from gross income for the taxable year (but only if  
26 the taxable year ends on or after December 31, 2008) under

1 Section 108(a) of the Internal Revenue Code and that would have  
2 been allocated and apportioned to this State under Article 3 of  
3 this Act but for that exclusion, and the denominator of which  
4 is the total amount of discharge of indebtedness income  
5 excluded from gross income under Section 108(a) of the Internal  
6 Revenue Code for the taxable year. The reduction required under  
7 this subsection (c) shall be made after the determination of  
8 Illinois net income for the taxable year in which the  
9 indebtedness is discharged.

10 (d) In the case of a corporation (other than a Subchapter S  
11 corporation), no carryover deduction shall be allowed under  
12 this Section for any taxable year ending after December 31,  
13 2010 and prior to June 30, 2013 ~~December 31, 2014~~; provided  
14 that, for purposes of determining the taxable years to which a  
15 net loss may be carried under subsection (a) of this Section,  
16 no taxable year for which a deduction is disallowed under this  
17 subsection shall be counted.

18 (e) In the case of a residual interest holder in a real  
19 estate mortgage investment conduit subject to Section 860E of  
20 the Internal Revenue Code, the net loss in subsection (a) shall  
21 be equal to:

22 (1) the amount computed under subsection (a), without  
23 regard to this subsection (e), or if that amount is  
24 positive, zero;

25 (2) minus an amount equal to the amount computed under  
26 subsection (a), without regard to this subsection (e),

1           minus the amount that would be computed under subsection  
2           (a) if the taxpayer's federal taxable income were computed  
3           without regard to Section 860E of the Internal Revenue Code  
4           and without regard to this subsection (e).

5           The modification in this subsection (e) is exempt from the  
6           provisions of Section 250.

7           (Source: P.A. 96-1496, eff. 1-13-11; 97-507, eff. 8-23-11.)".