

Floor Statement from Senator Blanche Lincoln

AMENDMENT NO. 4382 TO AMENDMENT NO. 4387

(Purpose: To provide an incentive to employers to offer group legal plans that provide a benefit for real estate and foreclosure review)

Mrs. LINCOLN. I call up my amendment No. 4382.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mrs. *Lincoln*], for herself, Mr. *Smith*, Mr. *Kerry*, Ms. *Stabenow*, and Mr. *Levin*, proposes an amendment numbered 4382 to amendment No. 4387.

The amendment is as follows:

(Purpose: To provide an incentive to employers to offer group legal plans that provide a benefit for real estate and foreclosure review)

At the end of title III add the following:

SEC. 302. EXCLUSION FOR AMOUNTS RECEIVED UNDER QUALIFIED GROUP LEGAL SERVICES PLANS RESTORED, EXTENDED, AND MODIFIED.

(a) *Removal of Dollar Limitation.*--Section 120(a) of the Internal Revenue Code of 1986 (relating to exclusion by employee for contributions and legal services provided by employer) is amended by striking the last sentence.

(b) *Real Estate Matters Emphasized.*--Section 120(c) of the Internal Revenue Code of 1986 (relating to requirements) is amended by adding at the end the following new paragraph:

``(6) **BENEFITS.**--The plan shall provide, at a minimum, legal services for real estate matters relating to family or personal residences, including document review of real estate sales, purchases, closings, mortgages, and foreclosures.".

(c) *Extension.*--Section 120(e) of the Internal Revenue Code of 1986 is amended to read as follows:

``(e) *Application.*--This section and section 501(c)(20) shall apply to taxable years beginning after December 31, 2007, and before January 1, 2010.".

(d) *Effective Date.*--The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

Mrs. LINCOLN. Mr. President, the amendment I am offering today is a very important amendment because we are all here because we are concerned about the crisis that exists in the mortgage industry and certainly in home ownership, but, more importantly, we want to prevent it from happening again. We want to make sure we are providing information to home buyers and others, counseling them in a way that really makes a difference. The amendment I am offering today will encourage our employers to provide group legal services benefits with an emphasis on real estate counseling for their employees.

Group legal services plans have been around since the 1970s and are intended to do exactly what the Center for Responsible Lending says should be one of our very top priorities in this effort to deal with the housing crisis. We should be encouraging and incentivizing preventative legal services.

I want to make sure my colleagues understand how important this benefit is for our Nation's employees, particularly employees in rural areas and low-income areas where access to lawyers might be scarce. We should be giving the average American homeowner access to legal advice so that she or he can feel confident in the mortgages they are getting into and so that when, God forbid, things do go wrong, they can receive advice about what their rights and responsibilities are in dealing with foreclosures and what options are available to them in dealing with this crisis.

Section 120 of the Internal Revenue Code has lapsed. That section of the code was intended to provide a tax incentive so that our employers would offer group legal services plans to their employees. Since it has lapsed, virtually no new group legal benefit plans have been created and many employers are dropping those that do exist.

We should be encouraging these plans because they provide our working Americans with access to the legal advice they need, that they deserve, and that they often cannot access. Those legal services would provide a review of mortgage documents, would work with lenders to modify the loans and would create forbearance agreements, would assist in the restructuring of loans, and would provide counsel in foreclosure litigation when that is needed. These are all complex transactions that require significant legal counsel, and my amendment will help ensure that America's homeowners, particularly those who are hard-working American families, and those home buyers, can get that much needed advice. We have provided this advice and certainly these services, as I mentioned earlier, since the 1970s through this benefit where employers can actually pool their resources in providing this type of advice and service to their employees.

I wish to thank all of my colleagues who have cosponsored this important amendment. Many of us have worked on a separate bill, and we think this is absolutely an appropriate and a proper place to put this incentive.

But Senator *Smith*, Senator *Kerry*, Senator *Stabenow*, Senator *Levin*, Senator *Schumer*, and Senator *Kennedy* are all cosponsors of our amendment.

Mr. President, I also ask unanimous consent now to add Senator *Snowe* as a cosponsor, who is also a cosponsor of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. LINCOLN. I also want to say a very big thanks to all of the groups that have endorsed this amendment: the American Bar Association, the American Prepaid Legal Services Institute, the International Union, the UAW, the AFSCME, and the Laborers. All of these groups have recognized how important it is to be able to provide these legal services to hard-working American families.

Particularly at a time when they may be affected in their home ownership or in the difficulties and challenges they face in the problems that exist in the mortgage industry right now, this is a critical component of the assistance we can provide them. To have let it lapse and to see that it virtually no longer exists is something we can correct. I hope we will with this amendment.

So, Mr. President, I thank you for the time, and I also say a special thanks to my chairman, Chairman *Baucus*, and Ranking Member *Grassley*, who have worked with us on this issue, along with Chairman *Dodd* and Ranking Member *Shelby*, who have done such a tremendous job in organizing and putting together, in an expeditious way, the effort we have to address these issues that working families are facing.

So I thank them and their staff for working with us, and we look forward to being able to move our amendment. I hope my colleagues will join me in

[Page: S2603]

support of such an important amendment, a vehicle as well as a component that we already know works because we have had it in this country for quite some time in providing legal services to working American families. We want to continue to see that happen.

AMENDMENT NO. 4382 TO AMENDMENT NO. 4387

(Purpose: To provide an incentive to employers to offer group legal plans that provide a benefit for real estate and foreclosure review)

Mrs. LINCOLN. I call up my amendment No. 4382.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mrs. *Lincoln*], for herself, Mr. *Smith*, Mr. *Kerry*, Ms. *Stabenow*, and Mr. *Levin*, proposes an amendment numbered 4382 to amendment No. 4387.

The amendment is as follows:

(Purpose: To provide an incentive to employers to offer group legal plans that provide a benefit for real estate and foreclosure review)

At the end of title III add the following:

SEC. 302. EXCLUSION FOR AMOUNTS RECEIVED UNDER QUALIFIED GROUP LEGAL SERVICES PLANS RESTORED, EXTENDED, AND MODIFIED.

(a) *Removal of Dollar Limitation.*--Section 120(a) of the Internal Revenue Code of 1986 (relating to exclusion by employee for contributions and legal services provided by employer) is amended by striking the last sentence.

(b) *Real Estate Matters Emphasized.*--Section 120(c) of the Internal Revenue Code of 1986 (relating to requirements) is amended by adding at the end the following new paragraph:

“(6) **BENEFITS.**--The plan shall provide, at a minimum, legal services for real estate matters relating to family or personal residences, including document review of real estate sales, purchases, closings, mortgages, and foreclosures.”.

(c) *Extension.*--Section 120(e) of the Internal Revenue Code of 1986 is amended to read as follows:

“(e) *Application.*--This section and section 501(c)(20) shall apply to taxable years beginning after December 31, 2007, and before January 1, 2010.”.

(d) *Effective Date.*--The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

Mrs. LINCOLN. Mr. President, the amendment I am offering today is a very important amendment because we are all here because we are concerned about the crisis that exists in the mortgage industry and certainly in home ownership, but, more importantly, we want to prevent it from happening again. We want to make sure we are providing information to home buyers and others, counseling them in a way that really makes a difference. The amendment I am offering today will encourage our employers to provide group legal services benefits with an emphasis on real estate counseling for their employees.

Group legal services plans have been around since the 1970s and are intended to do exactly what the Center for Responsible Lending says should be one of our very top priorities in this effort to deal with the housing crisis. We should be encouraging and incentivizing preventative legal services.

I want to make sure my colleagues understand how important this benefit is for our Nation's employees, particularly employees in rural areas and low-income areas where access to lawyers might be scarce. We should be giving the average American homeowner access to legal advice so that she or he can feel confident in the mortgages they are getting into and so that when, God forbid, things do go wrong, they can receive advice about what their rights and responsibilities are in dealing with foreclosures and what options are available to them in dealing with this crisis.

Section 120 of the Internal Revenue Code has lapsed. That section of the code was intended to provide a tax incentive so that our employers would offer group legal services plans to their employees. Since it has lapsed, virtually no new group legal benefit plans have been created and many employers are dropping those that do exist.

We should be encouraging these plans because they provide our working Americans with access to the legal advice they need, that they deserve, and that they often cannot access. Those legal services would provide a review of mortgage documents, would work with lenders to modify the loans and would create forbearance agreements, would assist in the restructuring of loans, and would provide counsel in foreclosure litigation when that is needed. These are all complex transactions that require significant legal counsel, and my amendment will help ensure that America's homeowners, particularly those who are hard-working American families, and those home buyers, can get that much needed advice. We have provided this advice and certainly these services, as I mentioned earlier, since the 1970s through this benefit where employers can actually pool their resources in providing this type of advice and service to their employees.

I wish to thank all of my colleagues who have cosponsored this important amendment. Many of us have worked on a separate bill, and we think this is absolutely an appropriate and a proper place to put this incentive.

But Senator *Smith*, Senator *Kerry*, Senator *Stabenow*, Senator *Levin*, Senator *Schumer*, and Senator *Kennedy* are all cosponsors of our amendment.

Mr. President, I also ask unanimous consent now to add Senator *Snowe* as a cosponsor, who is also a cosponsor of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. LINCOLN. I also want to say a very big thanks to all of the groups that have endorsed this amendment: the American Bar Association, the American Prepaid Legal Services Institute, the International Union, the UAW, the AFSCME, and the Laborers. All of these groups have recognized how important it is to be able to provide these legal services to hard-working American families.

Particularly at a time when they may be affected in their home ownership or in the difficulties and challenges they face in the problems that exist in the mortgage industry right now, this is a critical component of the assistance we can provide them. To have let it lapse and to see that it virtually no longer exists is something we can correct. I hope we will with this amendment.

So, Mr. President, I thank you for the time, and I also say a special thanks to my chairman, Chairman *Baucus*, and Ranking Member *Grassley*, who have worked with us on this issue, along with Chairman *Dodd* and Ranking Member *Shelby*, who have done such a tremendous job in organizing and putting together, in an expeditious way, the effort we have to address these issues that working families are facing.

So I thank them and their staff for working with us, and we look forward to being able to move our amendment. I hope my colleagues will join me in

[Page: S2603]

support of such an important amendment, a vehicle as well as a component that we already know works because we have had it in this country for quite some time in providing legal services to working American families. We want to continue to see that happen.

Congressional Record, April 8, 2008, [Page: S2725]

Mrs. LINCOLN. Mr. President, do I need to ask unanimous consent for more time?

I ask unanimous consent to extend the time for an additional 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. LINCOLN. Mr. President, I apologize to my colleagues. I know I am taking up time now when folks are ready to leave and do other things and then come back, but I do feel strongly about this amendment and I just wanted to voice my concerns.

This is an amendment that Senator *Smith* and I are offering, along with Senator *Snowe* and many others--Senators *Kerry*, *Stabenow*, *Levin*, *Schumer*, *Kennedy*. It is a good amendment, and it will encourage our employers to provide group legal service benefits with an emphasis on real estate counseling for their employees. This is something which group legal service plans--which have been around since the 1970s--were intended to do and exactly what the Center for Responsible Lending said should be one of our top priorities in this effort in dealing with the housing crisis. We should be encouraging and incentivizing preventive legal services.

What the center had cited increasing are those incentives for mortgage counseling legal services. It is a key policy recommendation for dealing with what we find ourselves in now--the crisis situation we are in. Borrowers need affordable and available legal review of

mortgages, mortgage-related documents, and financing and loan modifications. These are complex transactions and sometimes, oftentimes, folks in States such as Arkansas and Montana have nowhere else to go. Legal services provide them that kind of proactive involvement in making sure they are making the right decisions.

We should be giving the average American homeowner access to that legal advice so he or she can feel confident in the mortgages they are getting into, so that when, if, unfortunately, God forbid, things do go wrong, they can receive advice about their rights and responsibilities and what they are dealing with in foreclosure, what options are available to them in dealing with these crises.

This is a good addition to this bill. It is positive. It is all of what we have been talking about that we need. It is consumer friendly. It is something we have used in this country. Unfortunately, section 120 of the Internal Revenue Code has lapsed. That section of the code was intended to provide the tax incentives so that our employers could set up and offer group legal service plans. Since it has lapsed, virtually no new group legal benefit plans have been created, and many employers are dropping those that do exist.

So I would encourage us all to look at what we are trying to accomplish in this bill; not to just throw things overboard because somebody else didn't get what they wanted, but that we look at what we are trying to do for the American people. We should encourage these plans that provide our working Americans with access to legal advice. They review those mortgage documents, they assist those individuals in working with the lender to modify those loans, creating forbearance agreements and assistance in the restructuring of loans, and it provides that much needed counseling in foreclosure litigation when it is needed.

I thank Chairman *Dodd* and the ranking member, Senator *Shelby*, for their patience because I know they see all of us in these frantic modes of wanting to improve the bill and wanting to provide something that we know has been beneficial to the people we represent, and we know it can be beneficial again, and this is the appropriate place to put it.

So I just encourage that working through legal services, particularly in rural States such as mine, it is one of those places where people have to go. They do have the confidence of going to their neighbor, their country lawyer, and being able to get those services. They may not have a big, huge housing agency they can go to for the kinds of counsel they need, and these are good services that have proven themselves in years passed. Yet we find that employers cannot afford to provide them because we have lost that section in the Internal Revenue Code.

So I do thank all my colleagues who have cosponsored this amendment. We have worked on this for quite some time. I say a big thanks also to the groups that have endorsed our amendment--the American Bar Association, the American Prepaid Legal Services Institute, the International Union, UAW, AFSCME, and the laborers. So many different groups realize hard-working Americans who get caught in these circumstances need this kind of assistance.

I thank the Chair for his indulgence, and certainly my colleagues, the chairman, and the ranking member for trying to work with us. And I guess, Mr. President, and Mr. Chairman, my only option is to ask for a unanimous consent; is that correct? Is there something we can work through? Can I ask unanimous consent for regular order with respect to my amendment?

The ACTING PRESIDENT pro tempore. The amendment is not in regular order.

Mrs. LINCOLN. Mr. President, I ask my colleagues to take every consideration as they move forward in putting together this bill; that if there is any possible way we can work through making sure these individuals who really have nowhere else to go will be able to have the types of services they are used to having in years passed, and providing the incentives the employers need in order to be able to provide those services because they are clearly not providing them now. It is not something small businesses can do.

[Page: S2726] *GPO's PDF*

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Mr. President, I will ask for 2 additional minutes, if I can, to respond to my colleague from Arkansas.

First of all, I agree with her totally about the value. Over the many years I have been a long-time supporter of these legal services offices and the job they do on behalf of people all across the country, particularly in rural America, and the difference they make. So I am in complete agreement with her about the value of this approach.

I would inform her that the regular order would be asking consent, after cloture has been invoked, to bring up the matter she wants to bring up. It is a tax matter and one that would require the consent of the chairman of the Finance Committee and the ranking member. So it is a matter where we are leaving it up to that jurisdiction to respond. So I want to be careful. I don't know how Senator *Baucus* feels about that. I don't want to put words in his mouth at all. I suspect he has the same sort of reaction as I do, and it is a positive one.

I am grateful for my colleague's understanding the situation we are in, trying to accommodate as many ideas as we can and to move from here to the next stage and deal with other aspects of the legislation. We couldn't have gotten here without the majority leader insisting, and really with the minority leader, to come together and allow us to bring up this package. So there are a lot of very good ideas and ones I applaud and welcome, but in the interest of trying to move forward, we are not going to be able to accommodate all of them.

I am not suggesting that will happen in this case, but I again appreciate her recognition that what we are trying to accomplish and deal with here is difficult. It is serious. As she points out, we have a lot of people suffering every single day--I have been making that case for 12 months--and we haven't been able to have a debate about this subject until last week. So to the extent that we have gotten that far along, that is some achievement.

I hope now that we are in the debate we can do some valuable and worthwhile works that will make a difference, and her suggestion contributes to that. So my hope is we will be able to accommodate this in the package as well.

Mrs. LINCOLN. I thank the chairman for his comments, and I certainly want to express this is a time-appropriate solution to the problems that exist, and I hope we will give every consideration to it.

I thank the Chair.