## PROTECTING GUN OWNERS IN BANKRUPTCY ACT OF 2010

Mr. SCOTT of Virginia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5827) to amend title 11 of the United States Code to include firearms in the types of property allowable under the alternative provision for exempting property from the estate, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5827

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Protecting Gun Owners in Bankruptcy Act of 2010''.

**SEC. 2. EXEMPTIONS.**

Section 522 of title 11, the United States Code, is amended—

(1) in subsection (d) by adding at the end the following:

''(13) The debtor's aggregate interest, not to exceed $3,000 in value, in a single rifle, shotgun, or pistol, or any combination thereof.'', and

(2) in subsection (f)(4)(A)—

(A) in clause (xiv) by striking ''and'' at the end,

(B) in clause (xv) by striking the period at the end and inserting ''; and'', and

(C) by adding at the end the following:

''(xvi) The debtor's aggregate interest, not to exceed $3,000 in value, in a single rifle, shotgun, or pistol, or any combination thereof.''.

**SEC. 3. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall apply only with respect to cases commenced under title 11 of the United States Code on or after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. SCOTT) and the gentleman from California (Mr. DANIEL E. LUNGREN) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

GENERAL LEAVE

Mr. SCOTT of Virginia. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. SCOTT of Virginia. Mr. Speaker, I yield all of the time to the sponsor of the bill, the gentleman from Ohio (Mr. BOCCIERI), and ask unanimous consent that he be allowed to control the time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BOCCIERI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while Congress works to pull our Nation out of this economic recession, many people across our great country continue to struggle with depleted savings and financial hardship, but those financial challenges should not affect a person's individual constitutional rights and their ability to protect their family. That is why I stand here today in strong support of H.R. 5827, Protecting Gun Owners in Bankruptcy Act. My legislation ensures families hit hard by the recent economic downturn in the recession and forced to file bankruptcy do not hand over their right to protection or their right to possess a firearm.

H.R. 5827 provides an exemption in the Federal Bankruptcy Code for personal firearms. Since 2005, debtors who file bankruptcy could retain household goods such as radios, TVs, VCRs and linens, but not firearms. Currently, bankruptcy for gun owners not only means the seizure of family heirlooms, but perhaps the inability for them to protect their own family. This means that families who file bankruptcy are left without this constitutionally provided right.

H.R. 5827 ensures a person who files for bankruptcy will not lose a treasured family heirloom or sporting equipment passed down from one generation to the next.

I happen to have a weapon that was passed down that my grandfather used in the Second World War, an M1 Carbine rifle that is a family heirloom. And as a small arms expert in the United States Air Force and a hunter in Ohio, I know that firearms are not just mere possessions but family heirlooms as well.

My fellow sportsmen in Ohio want to see the protection of their constitutionally protected rights. The Protecting Gun Owners in Bankruptcy Act will ensure that families can keep these prized possessions and continue to pass them on for generations to come.

The right protected by the Second Amendment is deeply rooted in our Nation's history and tradition. One needs to look no further than the woods of Ohio during autumn to know that this is true.

Mr. Speaker, I reserve the balance of my time.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I rise in support of H.R. 5827 and yield myself such time as I may consume.

Mr. Speaker, I am pleased to support the Protecting Gun Owners in Bankruptcy Act of 2010 because the bill does recognize that an individual's Second Amendment right to lawful self-defense is not suspended during periods of financial hardship.

The Second Amendment confirms the right of every American to keep and bear arms in self-defense. Neither Federal nor any State legislature is permitted to enact a law infringing on this most basic right. In 2008, the Supreme Court confirmed in its Heller decision that ''There seems to us no doubt, on the basis of both text and history, that the Second Amendment conferred an individual right to keep and bear arms.''

This fundamental right to defend oneself and one's family with lawful and responsible gun ownership was reinforced just this year when, in McDonald, the court prohibited State and local legislatures from passing laws infringing on an individual's Second Amendment rights.

Following passage of this bill, gun owners will be protected against overreaching legislatures but also from the harsh realities of the current economic crisis. Americans need not be reminded that our Nation is still mired in some of the worst economic conditions since the Great Depression. In my home State of California, bankruptcy filings in the first quarter of 2010 have increased approximately 41 percent over the first quarter of 2009.

The bill we're considering today, recognizing that constitutional rights do not halt in the face of financial difficulty, creates a new Federal exemption that places a personal firearm beyond the reach of creditors and allows the debtor to avoid liens on the firearm if they would otherwise prohibit him from taking the new exemption.

The Bankruptcy Code already exempts a variety of other basic items like linens and household goods that a debtor needs during a bankruptcy case to live a modest life and reorganize his or her financial affairs. The bill confirms that a debtor can maintain his or her own safety while the bankruptcy case is pending. The Federal bankruptcy exemption we are creating today is consistent with the principles embodied in the Second Amendment.

I would urge my colleagues to join with me in supporting the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BOCCIERI. Mr. Speaker, I yield 5 minutes to the gentlelady from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY of New York. I thank my colleague.

Mr. Speaker, I rise in strong opposition to H.R. 5827. I fail to see why we need to protect guns in a bankruptcy proceeding.

This bill had no hearings. It was not marked up. It only had 21 cosponsors. Suspension bills should be reserved for noncontroversial items. I know for a fact anywhere from 80 to 100 of our Members will be voting against this. This bill should have gone through regular order.

Bankruptcy is a tough time for everybody. I sympathize greatly with individuals and families who are facing a bankruptcy. But as part of a bankruptcy proceeding, personal assets are turned over to bankruptcy trustees. The trustees collect assets—cars, boats, and so on. Bankruptcy calls for all of these items.

The process is designed to provide some protections for both the bankrupt individual and the one who is owed money. Some items are exempt as they

are essential to one's livelihood. We want someone in debt to be able to have a fresh start, and therefore the law prevents some items from being turned over.

Under Federal law, assets like homes, life insurance contracts, health aids, and retirement funds are exempt, with reasonable limits. What is special about guns, though, that they should have a special carve-out? And the bill language would allow any single gun worth thousands of dollars from being turned over.

Take, for example, an engraved shotgun costing tens of thousands of dollars or a .50 caliber sniper rifle worth thousands of dollars. The bankrupt individual would get to keep these guns. I understand the committee has brought up revised text to correct this loophole, but this is another reason why the bill should have gone through the normal process of hearings and a markup.

Furthermore, studies have shown that the presence of guns in households, especially those experiencing bankruptcy, enhances the risk of suicide, or even worse, murder-suicide. According to the National Violent Death Reporting System, more than 12 percent of firearm-related murder-suicides and suicides were brought on by financial problems. Stories of murder-suicides also include descriptions of financial struggles.

In June 2010, a California couple died in a murder-suicide and their 3-year-old son was shot multiple times. The couple's 5-year-old son told authorities that his father tried to shoot him, and then shot his mother and brother. The family started missing house payments in early 2009 and had filed for bankruptcy in February 2010.

In February 2010, a Florida couple died of gunshot wounds in a murder-suicide in what the St. Petersburg Times described as ''the end of a long history of money troubles.'' They had filed for bankruptcy in December 2004, listing more than $200,000 in debt. The couple's two younger daughters hid in the bathroom during the shooting.

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In June 2009, a Florida family of four, including two children, was shot to death in a murder-suicide. According to records filed in Federal bankruptcy court, the parents were deeply in debt and had struggled for 5 years to get out. The couple had filed chapter 13 bankruptcy in 2004, and the trustee had constructed a plan for the couple to repay their debts, but they had failed to make the payments. The case was converted to a chapter 7, which forced the couple to liquidate their assets. A status hearing on the case was scheduled to occur 2 months after the murder-suicide.

This bill wrongly puts guns before the health and safety of families.

As far as the Second Amendment rights, especially with the Keller decision, people have the right to own guns—I am not disputing that. Again, we are talking about bankruptcy, and we are also talking about those who collect guns and who have many, many guns which are worth a lot of money, and they should be paying that debt.

Mr. DANIEL E. LUNGREN of California. I yield myself such time as I may consume.

Mr. Speaker, let me just say at the very beginning that I understand the sincerity and the strength of conviction of the gentlewoman from New York on this issue. I think we have a disagreement with respect to the times when firearms have been utilized to protect people from those who would otherwise do them harm, and I think there are some other reports that would suggest that that happens in far more instances than those incidents which result in harm to an owner of a gun or to someone in his or her family.

One of the things I just would like to put on the record is the limited effect of today's amendment. When a debtor files for bankruptcy relief, he or she must choose whether to claim the package of Federal exemptions or the State exemptions available in the State of his or her residence. Frequently, debtors claim State exemptions because they are typically more generous to the debtors than are the Federal exemptions. Moreover, under current bankruptcy law, States may opt out of the Federal exemption scheme by passing a law that prohibits debtors in those States from claiming the Federal exemptions. It is my understanding that, to date, 34 States have enacted such opt-out legislation, so debtors in only 16 States will ever be able to take advantage of the new Federal firearms exemption we are considering today. I do believe it is an appropriate piece of legislation, but one should understand the limited nature of its application.

Mr. Speaker, let me just conclude by saying that, while I support the creation of this exemption, the exemptions that Americans really want right now are exemptions from unemployment and skyrocketing national debt.

When I was home in my district this past weekend, my constituents talked to me about the exemption from the crushing burden of higher taxes that is poised to be unleashed upon them by the majority of this House at the end of the year. I am bemused at times when I hear people saying, Well, you Republicans won't pay for the tax cuts that are already in existence, which is another way of saying that the government has the first call on your money, and therefore, if we have lower taxes than otherwise would be the case, somehow we have done something wrong when, in fact, what will occur if we do not extend the current rates of taxes on the Federal level will be, by some calculations, the most massive, single tax increase in the history of the United States.

That is very, very disappointing. It is sort of a play on the language I used to hear on this floor from the majority when they used to talk about tax expenditures. That's another way of talking about the impact of ''tax cuts,'' meaning that somehow the Federal Government is expending something when it allows you or I or any American to keep the money in our pockets. That does indicate a philosophical difference that does divide us, unfortunately, a philosophical difference which is based on the premise that the money you earn is not yours, that the money you earn is kept by you only at the sufferance of the government and that if, in fact, the government by its generosity allows you to keep that money there, that somehow you should genuflect in supplication because you have done something to take money that justly belongs to them.

So we are going to find out by the end of this year whether that concept of whose money it is prevails or whether it is, in my judgment, the proper viewpoint that the money you earn is, in your case, yours first and that the government ought to only exact the smallest amount of funds, that which is necessary to do those things that are required by government function.

So I must lament that fact while I do continue to support this piece of legislation.

I reserve the balance of my time.

Mr. BOCCIERI. I yield myself such time as I may consume.

Mr. Speaker, today, we are talking about what is in a family's heirlooms, their possessions. I know the Republican would like to draw this into a long debate about how we got into this mess, but I will remind the gentleman that, on day one in 2009 when the 111th Congress started, we were faced with unprecedented budget deficits that were handed over to us from the previous administration—$3.5 trillion to be exact—and an economy that was in free fall. We didn't know where it was going to land. We were faced with two undeclared, unfunded wars, unregulated greed on Wall Street, and a banking crisis that was affecting so many small businesses.

So I will remind the gentleman that, while the policies that allowed us to get into this ditch are not at the heart of this debate, certainly, he is welcome to debate us, as we proceed further, on how we got into this economic mess and on what measures we are taking to get ourselves out of this.

Mr. Speaker, I reserve the balance of my time.

Mr. DANIEL E. LUNGREN of California. I yield myself such time as I may consume.

Mr. Speaker, I would just remind my colleague from Ohio that the last time we had a balanced budget on the Federal level was when we had a Democrat in the White House and a Republican-controlled House and a Republican-controlled Senate. Perhaps we ought to try that again after November.

I support this legislation. I hope that there will be strong support for it.

I yield back the balance of my time.

Mr. BOCCIERI. Mr. Speaker, in closing, I would remind the gentleman as well on the other side that it was a Republican-controlled Congress and a Republican President who allowed us to get $11 trillion in debt when the last Democratic-controlled White House had a $5.6 trillion projected surplus.

So, now that the facts are straight, I just want to be clear that this legislation is about amending the Federal bankruptcy codes, which have already been used to exempt furniture, musical instruments, jewelry, and other household goods, to be allowed to exempt people's heirlooms, their firearms, that have been passed on from generation to generation.

I believe that the majority of Americans agrees with the Second Amendment—the constitutional right that we have to bear arms. We have continually upheld its validity for hundreds of years because, in many cases, a family's guns are heirlooms, treasured pieces of family history, which should not be subjected to financial hardship. I spoke of my grandfather's M1 carbine that has been handed down to me now through two successive generations.

One fact, one principle this country was founded upon was the ability of our people to provide their own protection. Bearing this in mind and this historical perspective, we respect the rights of gun owners as a shared value we see amongst Democrats and some Republicans. It is not a Republican or a Democratic issue but a foundational value of American ideals. We must protect the rights guaranteed to us by our Founding Fathers no matter what financial circumstances a citizen must face.

Mr. CRITZ. Mr. Speaker, I rise today in support of H.R. 5827, the Protecting Gun Owners in Bankruptcy Act of 2010. As a strong supporter of the Second Amendment, I believe that owning a gun is a right and that this right extends to all people, including those in bankruptcy.

After declaring bankruptcy, people are often denied their Constitutionally protected rights by being forced to relinquish their firearms. While other property, such as televisions, radios, china, crockery, and appliances, is protected from repossession, firearms are not. If owning a gun is a right, shouldn't guns be protected from repossession just as other property is protected?

Right now, only 10 states have laws that protect gun owners from firearm repossession during bankruptcy. Currently, the Commonwealth of Pennsylvania is not one of these 10, so I support this bill because I believe that my constituents' Second Amendment rights, as well as the Second Amendment rights of all Americans, should be protected during bankruptcy.

This is a good bill and I urge my colleagues to vote "yes."

Mr. BOCCIERI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. SCOTT) that the House suspend the rules and pass the bill, H.R. 5827, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mrs. MCCARTHY of New York. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

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## SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

(Mr. MORAN of Kansas addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

## AN END TO CHINESE HOSTILITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. CAO) is recognized for 5 minutes.

Mr. CAO. Mr. Speaker, I rise today to discuss the ongoing maritime conflict in the South China Sea and the need for the United States to support long-term sovereignty of the Vietnamese people. Given this conflict will destabilize trade and peace in this region, this is a matter of great importance for all of us in this esteemed body.

Since the summer of 2009, reports of maritime disputes in the South China Sea have risen. I continue to hear of aggression from Chinese ships and submarines interfering with the freedom of navigation of neighboring Asian countries. I also hear of aggressive actions being taken towards United States interests as well, and this is particularly troubling and unacceptable.

According to reports, China has committed aggressive maritime acts against Southeast Asian countries including Japan, the Philippines, Taiwan, Malaysia, and especially the people of Vietnam.

China claims vast ocean territory that includes many islands and extends into much of the South China Sea. If we were to look at the map of the South China Sea, we see that China is here, Vietnam is here, the Philippines is here, and Malaysia is located here. And China, being the farthest away from the Paracel Islands, as well as the Spratly Islands, claims to have dominion over all of them. These claims, along with their aggressive presence, has caused tensions between the people of Southeast Asia and China to grow.

The conflict in the South China Sea is hindering free navigation of these waters, which could negatively affect commercial interests and regional security. This would directly affect the livelihoods of peaceful people in these nations. The time has come for the United States to take a strong stance against China's harassment before these actions escalate into hostile confrontation.

China's hostile relationship has been reported to have gone so far as to commit aggressive actions towards Vietnamese citizens. As a Vietnamese American, I am especially interested in the territorial integrity of my native country. And I am concerned to hear reports outlining aggressive actions towards Vietnamese citizens, especially fishermen, that have resulted in injuries, damages to their fishing vessels and, in severe cases, death.

The goal of the United States diplomacy should be to recognize the tensions in this region and to concentrate on first alleviating this tension. The United States should strongly consider advocating for China's release of disputed territories like the Spratly and Paracel Islands and to ensure multilateral dialogue and action to resolve the ongoing maritime dispute.

What is the basis for China's aggression?

Many experts ascribe China's aggression toward its neighbors as stemming from its ever-increasing appetite for energy. There is no question China continues to seek additional sources of energy, particularly across Africa, where their influence continues to grow.

According to reports, China's oil consumption is expected to double over the next 25 years, from 7.2 million barrels per day in 2006 to 15.3 million barrels per day in 2030.

China's natural gas consumption is expected to more than triple in that same period of time, from 2 trillion cubic feet in 2006 to 6.8 trillion cubic feet in 2030.

It has been reported that, in addition to substantive fishing resources, the disputed areas contain oil and natural gas reserves. Further, the islands are in China's pathway as their economy continues to expand. This may be why China is racing to secure its maritime territory, to secure these areas for their oil and natural gas exploration, and to assist in their economic expansion.

However, credible reports indicate that China has claimed lands beyond Taiwan, which may point to China's intention of expanding its power over a much larger area, in direct conflict with the interests of its neighbors.

While some explain China's territorial behavior as strategic to secure their access to energy resources, others strongly believe China's intentions may be going further to gain territory to impose its influence.

What is certain, however, is that while China appears to be negotiating,