

**AMENDMENT TO THE SENATE AMENDMENTS TO
H.R. 22
OFFERED BY MR. GARRETT OF NEW JERSEY**

Page 1032, after line 4, insert the following:

1 **SEC. ____ . CIVIL ACTION AGAINST EXPORT-IMPORT BANK**
2 **FOR CERTAIN HARM.**

3 (a) CIVIL ACTION.—A person may bring a civil action
4 against the Export-Import Bank of the United States in
5 the appropriate United States district court for harm
6 caused by the issuance by the Bank of a loan, guaranty,
7 or other financing to another person if—

8 (1) the person bringing the action submitted
9 comments pursuant to section 2(e)(7) of the Export-
10 Import Bank Act of 1945 (12 U.S.C. 635(e)(7)) in-
11 dicating harm the person would incur if the loan,
12 guaranty, or other financing were provided to that
13 other person;

14 (2) the Bank did not address the concerns indi-
15 cated in comments submitted pursuant to section
16 2(e)(7) of the Export-Import Bank Act of 1945 (12
17 U.S.C. 635(e)(7)) with respect to the loan, guaranty,
18 or other financing; or

1 (3) the person bringing the action demonstrates
2 that—

3 (A) the person suffered a net loss of jobs,
4 as a result of the loan, guaranty, or other fi-
5 nancing; or

6 (B) the person suffered a decrease in busi-
7 ness transactions or profits, as a result of the
8 loan, guaranty, or other financing, of at least 5
9 percent over a 12-month period occurring since
10 the loan, guaranty, or other financing was ap-
11 proved, except that, in the case of a minority-
12 or female-owned business, this subparagraph
13 shall be applied by substituting “1 percent” for
14 “5 percent”.

15 (b) **SUSPENSION OF ASSISTANCE.**—Upon the filing of
16 a civil action under subsection (a) with respect to a loan,
17 guaranty, or other financing provided by the Export-Im-
18 port Bank, the Bank shall suspend such assistance while
19 the action is pending.

20 (c) **BURDEN OF PROOF.**—In a civil action brought
21 under subsection (a), upon a prima facie showing by the
22 plaintiff of the requirements set forth in paragraphs (1),
23 (2), and (3) of subsection (a), the defendant has the bur-
24 den of proving, by a preponderance of the evidence, that
25 the such requirements have not been met.

1 (d) AWARD TO PREVAILING PLAINTIFF.—

2 (1) DAMAGES.—The Export-Import Bank shall
3 be liable to a prevailing plaintiff or plaintiffs in a
4 civil action brought under this section an award
5 equal to 3 times the dollar amount of the loan that
6 is the subject of the action and was provided, guar-
7 anteed, insured, or otherwise financed by the Ex-
8 port-Import Bank, plus a reasonable attorney's fee.

9 (2) TERMINATION OF FINANCING.—In addition
10 to the liability of the Export-Import Bank to a pre-
11 vailing plaintiff under paragraph (1), the Export-Im-
12 port Bank shall terminate the loan, guaranty, or
13 other financing that is the subject of the civil action.

14 (e) STATUTE OF LIMITATIONS.—A civil action under
15 this section may not be brought more than 5 years after
16 the date on which the Export-Import Bank approves the
17 loan, guaranty, or other financing that is the subject of
18 the civil action.

19 (f) EXCLUSION.—A person may not bring a civil ac-
20 tion under this section if the person has received a loan,
21 guaranty, or other financing from the Export-Import
22 Bank.

1 (g) APPEAL.—The Export-Import Bank may not ap-
2 peal the judgment of the district court in any civil action
3 brought under this section.

