

AMENDMENT TO H.R. 4173
OFFERED BY MR. SHERMAN OF CALIFORNIA

Page 1068, after line 22, add at the end of section 6003 the following new subsection:

1 (c) CIVIL LIABILITIES ARISING IN CONNECTION
2 WITH SECURITIES GIVEN GROSSLY NEGLIGENT RAT-
3 ING.—

4 (1) RECOVERY FOR DAMAGES.—Section 12 of
5 the Securities Act of 1933 (15 U.S.C. 771) is amend-
6 ed by adding at the end the following new sub-
7 section:

8 “(c) RECOVERY FOR DAMAGES.—(1) A purchaser of
9 a security given a rating by a nationally recognized statis-
10 tical rating organization shall have the right to recover
11 for damages only if the credit rating—

12 “(A) was grossly negligent, based on the facts
13 and circumstances available at the time the rating
14 was issued; and

15 “(B) was a substantial factor in the investor’s
16 economic loss.

17 “(2) The nationally recognized statistical rating orga-
18 nization shall not be liable to the extent that the organiza-

1 tion can establish that the organization exercised due care
2 in connection with the issuance of the credit rating.”.

3 (2) STATUTE OF LIMITATIONS.—Section 13 of
4 the Securities Act of 1933 (15 U.S.C. 77m) is
5 amended—

6 (A) by striking “No action” and inserting
7 “(a) SECTION 11 AND 12(A) ACTIONS.—No ac-
8 tion”; and

9 (B) by adding at the end the following new
10 subsection:

11 “(b) SECTION 12(c) ACTIONS.—No action shall be
12 maintained to enforce any liability created under section
13 12(c) unless the action is brought within one year after
14 the discovery of the facts constituting the violation and
15 within three years after the initial issuance of the secu-
16 rity.”.

