

HR 5652

Sequester Replacement Reconciliation Act of 2012

Congress: 112 (2011–2013, Ended)

Chamber: House

Policy Area: Economics and Public Finance

Introduced: May 9, 2012

Current Status: Read the second time. Placed on Senate Legislative Calendar under General Orders. Calendar No. 398.

Latest Action: Read the second time. Placed on Senate Legislative Calendar under General Orders. Calendar No. 398.

(May 15, 2012)

Official Text: <https://www.congress.gov/bill/112th-congress/house-bill/5652>

Sponsor

Name: Rep. Ryan, Paul [R-WI-1]

Party: Republican • **State:** WI • **Chamber:** House

Cosponsors

No cosponsors are listed for this bill.

Committee Activity

Committee	Chamber	Activity	Date
Budget Committee	House	Reported Original Measure	May 9, 2012

Subjects & Policy Tags

Policy Area:

Economics and Public Finance

Related Bills

Bill	Relationship	Last Action
112 HR 6684	Related bill	Dec 21, 2012: Received in the Senate.
112 HR 6442	Related bill	Sep 19, 2012: Referred to the House Committee on Ways and Means.
112 HR 5740	Related bill	May 31, 2012: Became Public Law No: 112-123.
112 HRES 648	Procedurally related	May 10, 2012: Motion to reconsider laid on the table Agreed to without objection.
112 HR 4966	Related bill	May 9, 2012: Placed on the Union Calendar, Calendar No. 329.
112 HR 5	Related bill	Apr 16, 2012: Read the second time. Placed on Senate Legislative Calendar under General Orders. Calendar No. 353.
112 HR 3000	Related bill	Nov 18, 2011: Referred to the Subcommittee on Higher Education and Workforce Training.
112 HR 3044	Related bill	Sep 23, 2011: Referred to the House Committee on Financial Services.
112 HR 2205	Related bill	Aug 25, 2011: Referred to the Subcommittee on the Constitution.
112 HR 1309	Related bill	Jul 27, 2011: Received in the Senate and Read twice and referred to the Committee on Banking, Housing, and Urban Affairs.
112 S 1284	Related bill	Jun 28, 2011: Read twice and referred to the Committee on Banking, Housing, and Urban Affairs. (text of measure as introduced: CR S4160-4161)
112 S 1099	Related bill	May 26, 2011: Read twice and referred to the Committee on the Judiciary.
112 HR 1683	Related bill	May 6, 2011: Referred to the Subcommittee on Health.
112 S 868	Related bill	May 3, 2011: Read twice and referred to the Committee on Finance.
112 HR 1430	Related bill	May 2, 2011: Referred to the Subcommittee on Insurance, Housing and Community Opportunity.
112 HR 902	Related bill	Apr 4, 2011: Referred to the Subcommittee on Insurance, Housing and Community Opportunity.
112 HR 839	Related bill	Mar 30, 2011: Received in the Senate and Read twice and referred to the Committee on Banking, Housing, and Urban Affairs.
112 S 527	Related bill	Mar 9, 2011: Read twice and referred to the Committee on Banking, Housing, and Urban Affairs.
112 HR 105	Related bill	Feb 25, 2011: Referred to the Subcommittee on Health, Employment, Labor, and Pensions.
112 HR 397	Related bill	Feb 9, 2011: Referred to the Subcommittee on Health.
112 S 218	Related bill	Jan 27, 2011: Read twice and referred to the Committee on the Judiciary.
112 S 197	Related bill	Jan 26, 2011: Read twice and referred to the Committee on Health, Education, Labor, and Pensions.
112 S 12	Related bill	Jan 25, 2011: Read twice and referred to the Committee on Finance.

Sequester Replacement Reconciliation Act of 2012 - **Title I: Agriculture** - Agricultural Reconciliation Act of 2012 - (Sec. 102) Amends the American Recovery and Reinvestment Act of 2009 to terminate the increase in the value of supplemental nutrition assistance program (SNAP, formerly the food stamp program) benefits for Puerto Rico and American Samoa on June 30, 2012.

(Sec. 103) Amends the Food and Nutrition Act of 2008 to limit categorical SNAP eligibility to households receiving specified other program benefits in cash.

(Sec. 104) Eliminates the requirement that a state agency using a standard utility allowance provide such allowance to a household that receives assistance under the Low Income Home Energy Assistance Act of 1981 or other energy assistance program if such household incurs out-of-pocket heating or cooling expenses exceeding such assistance.

(Sec. 105) Eliminates: (1) administrative cost sharing to states for certain employment and training programs, (2) state bonus programs for effective SNAP administration, and (3) indexing for the nutrition education and obesity prevention grant program.

(Sec. 107) Reduces FY2013 funding for employment and training programs.

(Sec. 109) Authorizes FY2013 appropriations to carry out the Food and Nutrition Act of 2008.

(Sec. 110) States that: (1) this title and the amendments made by this title shall take effect on October 1, 2012, and shall apply only with respect to certification periods that begin on or after such date; and (2) section 107 and the amendments made by sections 102, 103, 104, and 109 shall take effect on the date of the enactment of this Act and shall apply only with respect to certification periods that begin on or after such date.

Title II: Committee on Energy and Commerce - (Sec. 201) Amends the Patient Protection and Affordable Care Act (PPACA) to repeal provisions: (1) appropriating funds to the Secretary of Health and Human Services (HHS) to award grants to states for activities (including planning activities) related to establishing an American Health Benefit Exchange (a state health insurance exchange), (2) establishing and appropriating funds to the Prevention and Public Health Fund (a Fund to provide for expanded and sustained national investment in prevention and public health programs to improve health and help restrain the rate of growth in private and public sector health care costs), and (3) appropriating funds for the establishment and operation of the Consumer Operated and Oriented Plan (CO-OP) program (designed to foster the creation of qualified nonprofit health insurance issuers to offer qualified health plans in the individual and small group markets). Rescinds any unobligated balance appropriated under such provisions.

(Sec. 211) Amends title XIX (Medicaid) of the Social Security Act (SSA) to: (1) extend the reduction of the threshold level of permissible state taxes on health care providers before federal funding to the state for Medicaid is reduced; (2) reduce the state disproportionate share hospital (DSH) allotment for FY2022; and (3) repeal provisions prohibiting states from reducing eligibility levels for Medicaid.

(Sec. 213) Amends title XXI (State Children's Health Insurance Program) (CHIP, formerly known as SCHIP) of SSA to repeal provisions prohibiting states from reducing eligibility levels for CHIP.

(Sec. 214) Repeals provisions that increased Medicaid payments to territories through FY2019. Decreases the federal medical assistance percentage (FMAP) for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and

American Samoa.

(Sec. 215) Repeals provisions providing bonus payments to states for enrollment and retention programs for children covered under Medicaid and CHIP.

Title III: Financial Services - Subtitle A: Orderly Liquidation Fund - (Sec. 311) Amends the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) to repeal authority for: (1) judicial procedures for the orderly liquidation of certain financial companies, and (2) the Orderly Liquidation Fund.

Subtitle B: Home Affordable Modification Program - HAMP Termination Act of 2012 - (Sec. 323) Amends the Emergency Economic Stabilization Act of 2008 to prohibit the Secretary of the Treasury (Secretary) from providing assistance under the Home Affordable Modification Program (HAMP) under the Making Home Affordable initiative. Exempts from this prohibition assistance provided on behalf of homeowners to whom an offer to participate in HAMP was provided before enactment of this Act.

Prohibits certain unobligated funds from being made available under HAMP. Restricts the use of such funds solely to federal budget deficit reduction.

Directs the Secretary to: (1) study the extent of usage of HAMP by, and its impact upon, covered homeowners; and (2) publish on the Department of the Treasury website that HAMP has been terminated.

(Sec. 324) Declares that Congress encourages banks to work with homeowners to: (1) provide loan modifications to those that are eligible, and (2) assist with foreclosure prevention programs and information on loan modifications.

Subtitle C: Bureau of Consumer Financial Protection - (Sec. 331) Amends the Consumer Financial Protection Act of 2010 to repeal the requirement for an annual transfer of funds from the Board of Governors of the Federal Reserve System to the Consumer Financial Protection Bureau (CFPB).

Repeals: (1) the Consumer Financial Protection Fund, (2) the Victims Relief Fund, and (3) the authorization of appropriations and requirement for an annual report.

Authorizes appropriations for FY2012-FY2013.

Subtitle D: Flood Insurance Reform - Flood Insurance Reform Act of 2012 - (Sec. 342) Amends the National Flood Insurance Act of 1968 (NFIA) to extend through FY2016 the financing for National Flood Insurance Program (Program in this subtitle).

(Sec. 343) Amends the Flood Disaster Protection Act of 1973 (FDPA) to authorize the Administrator of the Federal Emergency Management Agency (FEMA) to suspend temporarily the mandatory flood insurance purchase requirement for areas designated as having special flood hazards, if they meet certain eligibility requirements.

Requires a lender or servicer who receives confirmation of a borrower's existing flood insurance coverage to terminate force-placed insurance and to refund all force-placed insurance premiums and related fees.

Requires each federal entity for lending regulation to direct regulated lending institutions to accept private flood insurance if it meets federal flood insurance requirements.

(Sec. 344) Amends NFIA to prescribe minimum annual flood insurance deductibles for subsidized and actuarial rate properties.

Sets forth a formula for indexing maximum coverage limits.

Authorizes optional coverage of loss of use of personal residence and business interruption.

Requires flood insurance regulations to allow payment of flood insurance premiums in installments.

Requires a new flood insurance policy on a property affected by a flood in progress during the 30-day waiting period before the policy's effective date to cover damage caused by the flood, but only if: (1) the damage occurs after expiration of the waiting period, and (2) the property has not suffered damage or loss from the flood before expiration of the period.

(Sec. 345) Raises the annual limitation on premium increases from 10% to 20% of the average of the risk premium rates for any properties within any single risk classification.

Schedules a 5-year phase-in of chargeable risk premium rates for: (1) an area that has been upgraded to a special flood hazard area, and (2) preferred risk rate areas.

Requires the charging of full actuarial rates for: (1) any nonresidential (commercial) property, (2) second homes and vacation homes, (3) homes sold to new owners, (4) homes flood-damaged or improved, and (5) severe repetitive loss properties.

Prohibits extension of subsidized rates for policies lapsed as a result of the policy holder's deliberate choice.

Makes communities making adequate progress at reconstruction or improvement to 100-year frequency flood protection systems eligible for premium flood insurance rates that would apply if the reconstruction or improvement were completed.

Revises requirements for special flood hazard rates for a community in the process of restoring flood protection afforded by a system previously accredited as providing 100-year frequency flood protection but no longer does so.

(Sec. 346) Establishes the Technical Mapping Advisory Council to develop proposed new mapping standards for 100-year flood insurance rate maps used under the Program.

(Sec. 347) Instructs the FEMA Administrator to: (1) establish new standards for rate maps based upon such Council's recommendations, and (2) update flood insurance rate maps accordingly.

Exempts temporarily from mandatory flood insurance purchase and compliance requirements certain property located in a special flood hazard area.

(Sec. 349) Requires the FEMA Administrator and the Comptroller General each to study options for privatizing the Program.

Authorizes the Administrator to: (1) carry out private risk-management initiatives to determine the capacity of private insurers, reinsurers, and financial markets to assist communities, on a voluntary basis only, in managing the full range of financial risks associated with flooding; and (2) secure flood reinsurance coverage from private market insurance, reinsurance, and capital market sources.

Requires the Administrator to: (1) assess annually the Program's claims-paying ability, including its utilization of private sector reinsurance; and (2) report annually to Congress on the financial status of the Program and the National Flood Insurance Fund.

(Sec. 351) Revises requirements for the mitigation assistance grant program.

Repeals authority for planning assistance grants.

Changes from flood risk mitigation to multi-hazard risk mitigation the plan a state or community is required to develop to be eligible for mitigation assistance.

Directs the Administrator to give priority to funding activities that will result in the greatest savings to the National Flood Insurance Fund (NFI Fund), including activities for repetitive and severe repetitive loss structures.

Eliminates beach nourishment as an eligible mitigation activity.

Specifies the percentages of costs which grants for eligible mitigation activities may cover for severe repetitive loss and repetitive loss structures as well as other mitigation activities.

Increases the administrative penalty for a state's or community's failure to provide matching funds.

Limits to \$40 million per year financial assistance to states and communities with respect to severe repetitive loss structures.

Eliminates: (1) the grants program for repetitive insurance claims properties, and (2) the pilot program for mitigation of severe repetitive loss properties.

Increases the amounts available from the NFI Fund to the National Flood Mitigation Fund (NFM Fund).

(Sec. 352) Amends the FDPA to direct the FEMA Administrator to notify residents of special flood hazard areas regarding flood insurance purchase requirements and rate phase-ins for such properties.

(Sec. 353) Amends the NFIA to require the Administrator to notify: (1) members of Congress whose districts or states would be affected by revision or update of a floodplain area or flood-risk zone, (2) tenants of the availability of contents insurance for property located in a special flood hazard area, and (3) policy holders regarding direct management by FEMA of their flood insurance policy and of the option to purchase flood insurance directly administered by an insurance company.

(Sec. 354) Revises notification requirements for the Administrator in establishing projected flood elevations for land use purposes.

(Sec. 357) Amends the Real Estate Settlement Procedures Act of 1974 (RESPA) to require that a lender's good faith estimate disclose to loan applicants: (1) the availability of flood insurance for residential real estate both in and out of a special flood hazard area, and (2) that the escrowing of flood insurance payments is required for many loans.

(Sec. 358) Amends the NFIA to require the Administrator to reimburse a property owner the reasonable costs incurred obtaining letters of map amendment or revision due to a bona fide FEMA error.

(Sec. 360) Requires the Administrator, when revising or updating areas with special flood hazards, to provide each owner of property newly included in such an area a copy of the proposed revised or updated flood insurance maps.

(Sec. 361) Declares eligible for flood insurance any property otherwise in compliance with the Program even it has a swimming pool located at ground level or in the space below the lowest floor of a building outside hurricane season if the

pool is enclosed with non-supporting breakaway walls.

(Sec. 362) Requires the Administrator and, if appropriate, the participating insurance company, upon request, to furnish information on structure damage and loss caused by flood or wind to any property with flood insurance who also has wind insurance.

(Sec. 363) Authorizes the Administrator to refuse to accept the transfer of the administration of flood insurance policies written and administered by any insurance company or other insurer, or any insurance agent or broker.

(Sec. 364) Authorizes the Administrator to grant an 90-day extension for appeal of proposed flood elevation determinations upon certification by an affected community that some property owners or lessees are unaware of the appeals period and the community will use the extension to notify them.

(Sec. 365) Directs the Administrator to establish a separate National Flood Insurance Reserve Fund to meet the expected future obligations of the flood insurance program.

(Sec. 366) Amends the Housing and Community Development Act of 1974 to make eligible for assistance under the Community Development Block Grants (CDBG) Program: (1) certain activities supplementing existing state or local funding for administration of building code enforcement by local building code enforcement departments, and (2) floodplain management outreach and education activities of local governmental agencies.

(Sec. 368) Directs the Administrator to report to Congress on procedures to limit to 10% the percentage of flood insurance policies directly managed by FEMA.

(Sec. 369) Directs the Administrator and Comptroller General each to study options for offering and incorporating voluntary community-based flood insurance policy options into the Program.

(Sec. 370) Directs the Administrator to study the feasibility of including nationally recognized building codes as part of floodplain management criteria.

(Sec. 371) Directs the National Academy of Sciences to study methods for understanding graduated risk behind levees.

(Sec. 372) Requires the Administrator to: (1) review processes and procedures for determining that a flood event has commenced or is in progress, and (2) report to Congress a plan to repay within 10 years all amounts loaned to FEMA by the Treasury with presidential approval.

(Sec. 374) Prohibits any cause of action or claim against the United States for violation of any notification requirement imposed by this Act.

(Sec. 375) Authorizes the Secretary of the Army, upon request of a state or local government, to evaluate a levee system designed or constructed by the Secretary.

Subtitle E: Repeal of the Office of Financial Research - (Sec. 381) Amends Dodd-Frank to eliminate the Office of Financial Research.

Title IV: Committee on the Judiciary - Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2011 [sic] -Sets conditions for lawsuits arising from health care liability claims and actions concerning the provision of health care goods or services or any medical product affecting interstate commerce.

(Sec. 402) Establishes a statute of limitations of three years after the date of manifestation of injury or one year after the claimant discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first, unless tolled for any of the following: (1) upon proof of fraud, (2) intentional concealment, or (3) the presence in the the injured person of a foreign body that has no therapeutic or diagnostic purpose or effect.

(Sec. 403) Limits noneconomic damages to \$250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same injury. Provides that each party shall be liable only for the amount of damages allocated to such party in direct proportion to such party's percentage of responsibility, and not for the share of any other person. Requires the court to supervise the arrangements for payment of damages to protect against conflicts of interest that may have the effect of reducing the amount of damages awarded that are actually paid to claimants. Limits contingent fees.

(Sec. 405) Permits punitive damages to be awarded against any person in a health care lawsuit only if: (1) it is proven by clear and convincing evidence that such person acted with malicious intent to injure the claimant or that such person deliberately failed to avoid unnecessary injury such person knew the claimant was substantially certain to suffer; and (2) a judgment for compensatory damages has been rendered against that person. Sets forth factors that may be considered in determining the amount of punitive damages, which shall be limited to the greater of \$250,000 or two times the amount of economic damages awarded. Prohibits the award of punitive damages against a manufacturer or distributor of, a supplier of any component or raw material of, or a health care provider that prescribes or dispenses, a medical product that complies with FDA standards.

(Sec. 406) Requires the court, at the request of any party in the lawsuit, to enter a judgment ordering that future damages be paid by periodic payments, in accordance with the Uniform Periodic Payment of Judgments Act promulgated by the National Conference of Commissioners on Uniform State Laws, if an award of future damages equaling or exceeding \$50,000 is made against a party with sufficient insurance or other assets to fund such a payment.

Title V: Committee on Oversight and Government Reform - (Sec. 501) Increases federal employee contributions under the Civil Service Retirement System (CSRS) and the Federal Employees' Retirement System (FERS) by 5% of salary over 5 years, beginning in calendar year 2013.

Increases retirement contributions for: (1) Members of Congress in CSRS and FERS and for congressional employees in CSRS by 8.5% (by 7.5% for congressional employees in FERS) of salary over 5 years, beginning in calendar year 2013; and (2) Members of Congress and certain federal employees who begin federal service after December 31, 2012, and who have less than 5 years of creditable service for retirement purposes (revised annuity employees).

Requires any excess contributions made by an employee of the U.S. Postal Service (USPS) or the Postal Regulatory Commission (PRC) to be deposited to the credit of the Postal Service Fund, rather than the Civil Service Retirement and Disability Fund.

Modifies rules for determining government contributions to CSRS and FERS made after December 31, 2012, and requires any excess contributions to FERS to be used for reducing the unfunded liability of CSRS.

(Sec. 502) Eliminates the annuity supplement for FERS employees hired after December 31, 2012, except for certain law enforcement officers, firefighters, nuclear material couriers, border protection officers, and air traffic controllers.

(Sec. 503) Allows federal employees (including employees of USPS and PRC) and Members of Congress in CSRS or FERS to deposit any payment they receive for accumulated and accrued annual or vacation leave into their Thrift

Savings Fund accounts. Requires the Executive Director of the Federal Retirement Thrift Investment Board to promulgate regulations for such deposits.

Title VI: Committee on Ways and Means - Subtitle A: Recapture of Overpayments Resulting From Certain Federally-subsidized Health Insurance - (Sec. 601) Amends the Internal Revenue Code to repeal the limitation on the recapture of advance payment amounts of the tax credit for health insurance premium assistance that exceed the allowable amount of such credit for certain low-income taxpayers.

Subtitle B: Social Security Number Required to Claim the Refundable Portion of the Child Tax Credit - (Sec. 611) Requires taxpayers who are claiming the refundable portion of the child tax credit to include their social security numbers on their tax returns.

Subtitle C: Human Resources Provisions - (Sec. 621) Repeals the program of block grants to states for social services under title XX (Block Grants to States for Social Services) of the Social Security Act, effective October 1, 2012.

Title VII: Sequester Replacement - Sequester Replacement Act of 2012 - (Sec. 702) Amends the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings Act) to remove veterans' medical care from the accounts subject to a sequester.

(Sec. 703) Abolishes the distinction between security and nonsecurity categories of discretionary spending for new budget authority in FY2013. Combines the dollar amounts of the current categories (\$686 billion for the security category and \$361 billion for the nonsecurity category) into a single amount of \$1.047 trillion in new budget authority.

Revises sequestration requirements for FY2013 to require a \$19.104 billion across-the-board decrease in the discretionary spending category as of January 2, 2013.

Directs the Office of Management and Budget (OMB) to issue a supplemental sequestration report for FY2013 to eliminate any discretionary spending breach of the \$1.047 trillion spending limit, as adjusted by the \$19.104 billion across-the-board reduction requirement of this Act. Directs the President to order a sequestration, if any, as required by such report.

(Sec. 704) Amends the Congressional Budget Act of 1974 to authorize the chair of the Committee on the Budget of the House of Representatives or the Senate to make adjustments to any legislative measure to conform to the discretionary spending limits of this Act.

(Sec. 706) Nullifies any sequestration order the President may issue under the Gramm-Rudman-Hollings Act to carry out reductions to direct spending for the FY2013 defense function (050).

Actions Timeline

- **May 15, 2012:** Read the second time. Placed on Senate Legislative Calendar under General Orders. Calendar No. 398.
- **May 14, 2012:** Received in the Senate. Read the first time. Placed on Senate Legislative Calendar under Read the First Time.
- **May 10, 2012:** Rule H. Res. 648 passed House.
- **May 10, 2012:** Considered under the provisions of rule H. Res. 648. (consideration: CR H2583-2633)
- **May 10, 2012:** Rule provides for consideration of H.R. 5652 with 2 hours of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Measure will be considered read. Bill is closed to amendments. The resolution provides that an amendment in the nature of a substitute consisting of the text of Rules Committee Print 112-21 shall be considered as adopted. All points of order against provisions in the bill, as amended, are waived.
- **May 10, 2012:** DEBATE - Pursuant to the provisions of H. Res. 648, the House proceeded with two hours of debate on H.R. 5652.
- **May 10, 2012:** The previous question was ordered pursuant to the rule. (consideration: CR H2630)
- **May 10, 2012:** Mr. Loebssack moved to recommit with instructions to The Budget. (consideration: CR H2630-2632; text: CR H2630-2631)
- **May 10, 2012:** DEBATE - The House proceeded with 10 minutes of debate on the on the Loebssack motion to recommit with instructions. The instructions contained in the motion seek to require the bill to be reported back to the House with an amendment to add a section to the bill prohibiting former Members of Congress who are registered lobbyists with salaries greater than \$1 million from eligibility to receive benefits under the Civil Service Retirement System or the Federal Employees' Retirement System.
- **May 10, 2012:** The previous question on the motion to recommit with instructions was ordered without objection. (consideration: CR H2632)
- **May 10, 2012:** On motion to recommit with instructions Failed by the Yeas and Nays: 170 - 232, 11 Present (Roll no. 246).
- **May 10, 2012:** Passed/agreed to in House: On passage Passed by recorded vote: 218 - 199, 1 Present (Roll no. 247). (text: CR H2583-2600)
- **May 10, 2012:** On passage Passed by recorded vote: 218 - 199, 1 Present (Roll no. 247). (text: CR H2583-2600)
- **May 10, 2012:** Motion to reconsider laid on the table Agreed to without objection.
- **May 9, 2012:** Introduced in House
- **May 9, 2012:** The House Committee on The Budget reported an original measure, H. Rept. 112-470, by Mr. Ryan (WI).
- **May 9, 2012:** Placed on the Union Calendar, Calendar No. 330.
- **May 9, 2012:** Rules Committee Resolution H. Res. 648 Reported to House. Rule provides for consideration of H.R. 5652 with 2 hours of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Measure will be considered read. Bill is closed to amendments. The resolution provides that an amendment in the nature of a substitute consisting of the text of Rules Committee Print 112-21 shall be considered as adopted. All points of order against provisions in the bill, as amended, are waived.