

103D CONGRESS  
1ST SESSION

# H. R. 1149

To amend the Internal Revenue Code of 1986 to provide assistance to first-time homebuyers.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 1993

Mr. ORTON (for himself, Mr. ACKERMAN, Mr. BACCHUS of Florida, Mr. DOOLITTLE, Mr. DORNAN, Mr. FINGERHUT, Mr. GILLMOR, Mr. GILMAN, Mr. HANSEN, Mr. MACHTLEY, Mr. PARKER, Mr. PAYNE of New Jersey, Mr. QUINN, Mr. ROHRABACHER, Mr. SARPALIUS, Ms. SHEPHERD, Mr. SISISKY, Mr. SOLOMON, Mr. SUNDQUIST, and Mr. ZELIFF) introduced the following bill; which was referred to the Committee on Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide assistance to first-time homebuyers.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “First-time Homebuyer  
5 Affordability Act of 1993”.

6 **SEC. 2. FINDINGS AND POLICY.**

7 (a) FINDINGS.—The Congress finds that—

1           (1) it is desirable to make funds available from  
2 individual retirement plans to encourage first time  
3 home ownership, and

4           (2) the tax and penalty on the premature with-  
5 drawal of funds from individual retirement plans are  
6 substantial impediments to making such funds avail-  
7 able for that purpose.

8           (b) POLICY.—It is the policy of the Congress to re-  
9 move impediments to home investment by first-time home-  
10 buyers by permitting owners of individual retirement plans  
11 to direct the trustees of such plans to invest plan funds  
12 as home equity or debt in the homes of family members  
13 who are first-time homebuyers.

14 **SEC. 3. CERTAIN RETIREMENT PLANS AUTHORIZED TO**  
15 **MAKE EQUITY INVESTMENTS IN PRINCIPAL**  
16 **RESIDENCES FOR FIRST-TIME HOMEBUYERS.**

17           (a) EXEMPTION FROM PROHIBITED TRANSACTION  
18 RULES.—Section 4975 of the Internal Revenue Code of  
19 1986 (relating to tax on prohibited transactions) is  
20 amended by redesignating subsections (h) and (i) as sub-  
21 sections (i) and (j), respectively, and by inserting after  
22 subsection (g) the following new subsection:

23           “(h) SPECIAL RULE FOR HOME EQUITY PARTICIPA-  
24 TION ARRANGEMENTS.—

1           “(1) IN GENERAL.—The prohibitions provided  
2           in subsection (c) shall not apply to any qualified  
3           home equity participation arrangement.

4           “(2) QUALIFIED HOME EQUITY PARTICIPATION  
5           ARRANGEMENT.—For purposes of this subsection—

6                   “(A) IN GENERAL.—The term ‘qualified  
7                   home equity participation arrangement’ means  
8                   an arrangement—

9                           “(i) under which the trustee of an in-  
10                           dividual retirement plan, at the direction of  
11                           the eligible participant, shall acquire an  
12                           ownership interest in all or any part of any  
13                           dwelling unit which within a reasonable pe-  
14                           riod of time (determined at the time the  
15                           arrangement is executed) is to be used as  
16                           the principal residence for a first-time  
17                           homebuyer, and

18                           “(ii) which meets the requirements of  
19                           subparagraph (B) of this paragraph.

20                   “(B) OWNERSHIP INTEREST REQUIRE-  
21                   MENT.—An arrangement shall meet the re-  
22                   quirements of this subparagraph if the owner-  
23                   ship interest described in subparagraph (A)—

24                           “(i) is a fee interest in such property  
25                           equal to the percentage which—

1                   “(I) the amount invested by the  
2 trustee of the individual retirement  
3 plan, bears to

4                   “(II) the acquisition cost of or  
5 total equity in the dwelling unit,

6                   “(ii) by its terms requires repayment  
7 in full upon—

8                   “(I) the sale or other transfer of  
9 the dwelling unit, or

10                   “(II) the cessation of use as the  
11 principal residence of the first-time  
12 homebuyer, and

13                   “(iii) may not be used as security for  
14 any loan secured by any interest in the  
15 dwelling unit.

16                   “(3) DEFINITIONS.—For purposes of this sub-  
17 section—

18                   “(A) ELIGIBLE PARTICIPANT.—The term  
19 ‘eligible participant’ means an individual on  
20 whose behalf an individual retirement plan is  
21 established.

22                   “(B) FIRST-TIME HOMEBUYER.—The term  
23 ‘first-time homebuyer’ means an individual  
24 who—

1           “(i) is an eligible participant or quali-  
2           fied family member, and

3           “(ii) had (and if married, such indi-  
4           vidual’s spouse had) no present ownership  
5           interest in a principal residence at any  
6           time during the 36-month period before  
7           the date of the arrangement.

8           “(C) QUALIFIED FAMILY MEMBER.—The  
9           term ‘qualified family member’ means a child  
10          (as defined in section 151(c)(3)), parent, or  
11          grandparent of the eligible participant (or such  
12          participant’s spouse). Section 152(b)(2) shall  
13          apply in determining if an individual is a parent  
14          or grandparent of an eligible participant (or  
15          such participant’s spouse).

16          “(D) ACQUISITION; ETC.—

17                 “(i) ACQUISITION.—The term ‘acqui-  
18                 sition’ includes construction, reconstruc-  
19                 tion, and improvement related to such ac-  
20                 quisition.

21                 “(ii) ACQUISITION COST.—The term  
22                 ‘acquisition cost’ has the meaning given  
23                 such term by section 143(k)(3).

1           “(E) PRINCIPAL RESIDENCE.—The term  
2           ‘principal residence’ has the same meaning as  
3           when used in section 1034.”.

4           (b) EFFECTIVE DATE.—The amendment made by  
5 this section shall apply to arrangements entered into after  
6 December 31, 1992.

7 **SEC. 4. LOANS USED TO ACQUIRE PRINCIPAL RESIDENCES**  
8           **FOR FIRST-TIME HOMEBUYERS.**

9           (a) INDIVIDUAL RETIREMENT PLANS.—Section  
10 408(e) of the Internal Revenue Code of 1986 (relating to  
11 tax treatment of accounts and annuities) is amended by  
12 adding at the end thereof the following new paragraph:

13           “(7) LOANS USED TO PURCHASE A HOME FOR  
14 FIRST-TIME HOMEBUYERS.—

15           “(A) IN GENERAL.—Paragraphs (3) and  
16 (4) shall not apply to any qualified home pur-  
17 chase loan made, or secured, by an individual  
18 retirement plan.

19           “(B) QUALIFIED HOME PURCHASE  
20 LOAN.—For purposes of this paragraph, the  
21 term ‘qualified home purchase loan’ means a  
22 loan—

23           “(i) made by the trustee of an individ-  
24 ual retirement plan at the direction of the

1 individual on whose behalf such plan is es-  
2 tablished,

3 “(ii) the proceeds of which are used  
4 for the acquisition of a dwelling unit which  
5 within a reasonable period of time (deter-  
6 mined at the time the loan is made) is to  
7 be used as the principal residence for a  
8 first-time homebuyer,

9 “(iii) which is secured by the dwelling  
10 unit,

11 “(iv) which by its terms requires re-  
12 payment in full within 15 years after the  
13 date of acquisition of the dwelling unit,

14 “(v) which by its terms treats any  
15 amount remaining unpaid in the taxable  
16 year beginning after the period described  
17 in clause (iv) as distributed in such taxable  
18 year to the individual on whose behalf such  
19 plan is established and subject to section  
20 72(t)(1), and

21 “(vi) which bears interest from the  
22 date of the loan at a rate not less than the  
23 rate for comparable United States Treas-  
24 ury obligations on such date.

1           “(C) DEFINITIONS.—For purposes of this  
2 paragraph—

3           “(i) FIRST-TIME HOMEBUYER.—The  
4 term ‘first-time homebuyer’ has the mean-  
5 ing given such term by section  
6 4975(h)(3)(B).

7           “(ii) ACQUISITION.—The term ‘acqui-  
8 sition’ has the meaning given such term by  
9 section 4975(h)(3)(D)(i).

10           “(iii) PRINCIPAL RESIDENCE.—The  
11 term ‘principal residence’ has the same  
12 meaning as when used in section 1034.

13           “(iv) DATE OF ACQUISITION.—The  
14 term ‘date of acquisition’ means the date—

15           “(I) on which a binding contract  
16 to acquire the principal residence to  
17 which subparagraph (B) applies is en-  
18 tered into, or

19           “(II) on which construction, re-  
20 construction, or improvement of such  
21 a principal residence is commenced.”.

22           (b) PROHIBITED TRANSACTION.—Section 4975(d) of  
23 the Internal Revenue Code of 1986 (relating to exemptions  
24 from tax on prohibited transactions) is amended by strik-  
25 ing “or” at the end of paragraph (14), by striking the

1 period at the end of paragraph (15) and inserting “; or”,  
2 and by inserting after paragraph (15) the following new  
3 paragraph:

4           “(16) any loan that is a qualified home pur-  
5           chase loan (as defined in section 408(e)(7)(B)).”.

6           (c) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to loans made after December 31,  
8 1992.

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