

103^D CONGRESS
2^D SESSION

H. R. 4027

To amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from certain retirement plans for the repair or replacement of certain property damaged in a Presidentially-declared disaster.

IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 1994

Mr. DREIER (for himself, Mr. EVANS, Mr. CALVERT, Mr. COX, Mr. BAKER of California, Mr. DORNAN, Mr. ROHRABACHER, Mr. MOORHEAD, and Mr. MCKEON) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from certain retirement plans for the repair or replacement of certain property damaged in a Presidentially-declared disaster.

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

1 **SECTION 1. PENALTY-FREE DISTRIBUTIONS FROM CER-**
2 **TAIN RETIREMENT PLANS TO REPAIR OR RE-**
3 **PLACE CERTAIN PROPERTY DAMAGED IN**
4 **PRESIDENTIALLY-DECLARED DISASTERS.**

5 (a) IN GENERAL.—Paragraph (2) of section 72(t) of
6 the Internal Revenue Code of 1986 (relating to exceptions
7 to 10-percent additional tax on early distributions from
8 qualified retirement plans) is amended by adding at the
9 end thereof the following new subparagraph:

10 “(D) DISTRIBUTIONS FROM CERTAIN RE-
11 TIREMENT PLANS FOR DISASTER-RELATED EX-
12 PENSES.—Distributions from an individual re-
13 tirement plan, or from amounts attributable to
14 employer contributions made pursuant to elec-
15 tive deferrals described in subparagraph (A) or
16 (C) of section 402(g)(3) or section
17 501(c)(18)(D)(iii), which are qualified disaster-
18 related distributions (as defined in paragraph
19 (6)).”

20 (b) DEFINITIONS.—Section 72(t) of such Code is
21 amended by adding at the end thereof the following new
22 paragraph:

23 “(6) QUALIFIED DISASTER-RELATED DISTRIBU-
24 TIONS.—

25 “(A) IN GENERAL.—For purposes of para-
26 graph (2)(D), the term ‘qualified disaster-relat-

1 ed distribution' means any distribution received
2 by an individual to the extent such distribution
3 is used by such individual before the close of
4 the 60th day after the day on which such dis-
5 tribution is received to pay for the repair or re-
6 placement of qualified disaster-damaged prop-
7 erty which is—

8 “(i) personal property of such individ-
9 ual, or

10 “(ii) a residence of such individual.

11 “(B) LIMITATIONS.—

12 “(i) ONLY DISTRIBUTIONS WITHIN
13 FIRST 1 YEAR TO QUALIFY.—Paragraph
14 (2)(D) shall not apply to any distribution
15 made more than 1 year after the date of
16 the determination referred to in subpara-
17 graph (C)(ii).

18 “(ii) WITHDRAWALS LIMITED TO UN-
19 INSURED LOSSES.—Paragraph (2)(D) shall
20 apply to distributions to repair or replace
21 any property—

22 “(I) only to the extent of the loss
23 sustained with respect to such prop-
24 erty which is not compensated for by
25 insurance or otherwise, and

1 “(II) in the case of property cov-
2 ered by insurance, only if a timely
3 claim is filed for compensation by
4 such insurance on the loss sustained
5 with respect to such property.

6 “(C) DEFINITIONS.—For purposes of this
7 paragraph—

8 “(i) DISASTER-DAMAGED PROP-
9 ERTY.—The term ‘qualified disaster-dam-
10 aged property’ means property—

11 “(I) which was located in a disas-
12 ter area on the date of the determina-
13 tion referred to in clause (ii),

14 “(II) which was damaged or de-
15 stroyed as a result of the disaster oc-
16 curring in such area, and

17 “(III) which is not connected
18 with a trade or business or a trans-
19 action entered into for profit.

20 “(ii) DISASTER AREA.—The term ‘dis-
21 aster area’ means an area determined by
22 the President to warrant assistance under
23 the Robert T. Stafford Disaster Relief and
24 Emergency Assistance Act.

1 “(D) SPECIAL RULES RELATING TO RE-
2 PLACEMENT OF RESIDENCE.—For purposes of
3 this paragraph—

4 “(i) CERTAIN COSTS INCLUDED.—The
5 cost of replacing a residence includes any
6 usual or reasonable settlement, financing,
7 or other closing costs.

8 “(ii) SPECIAL RULE WHERE DELAY IN
9 ACQUISITION.—If any distribution fails to
10 meet the requirements of subparagraph
11 (A) solely by reason of a delay or cancella-
12 tion of the purchase or construction of a
13 residence, the amount of the distribution
14 may be contributed to an individual retire-
15 ment plan as provided in section
16 408(d)(3)(A)(i) (determined by substitut-
17 ing ‘120 days’ for ‘60 days’ in such sec-
18 tion), except that—

19 “(I) section 408(d)(3)(B) shall
20 not be applied to such contribution,
21 and

22 “(II) such amount shall not be
23 taken into account in determining
24 whether section 408(d)(3)(A)(i) ap-
25 plies to any other amount.”

1 (c) CONFORMING AMENDMENTS.—

2 (1) Section 401(k)(2)(B)(i) of such Code is
3 amended by striking “or” at the end of subclause
4 (III), by striking “and” at the end of subclause (IV)
5 and inserting “or”, and by inserting after subclause
6 (IV) the following new subclause:

7 “(V) the date on which qualified
8 disaster-related distributions (as de-
9 fined in section 72(t)(6)) are made,
10 and”.

11 (2) Section 403(b)(11) of such Code is amend-
12 ed by striking “or” at the end of subparagraph (A),
13 by striking the period at the end of subparagraph
14 (B) and inserting “, or”, and by inserting after sub-
15 paragraph (B) the following new subparagraph:

16 “(C) for qualified disaster-related distribu-
17 tions (as defined in section 72(t)(6)).”

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to distributions after December 31,
20 1993, with respect to areas determined after such date
21 to warrant assistance under the Robert T. Stafford Disas-
22 ter Relief and Emergency Assistance Act.

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