

110TH CONGRESS  
2D SESSION

# H. R. 5822

To amend the Internal Revenue Code of 1986 to waive the 10 percent penalty on withdrawals from qualified retirement plans upon receipt of notice of foreclosure on a principal residence.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 16, 2008

Mr. CARDOZA introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to waive the 10 percent penalty on withdrawals from qualified retirement plans upon receipt of notice of foreclosure on a principal residence.

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. WAIVER OF 10 PERCENT PENALTY ON WITH-**  
4 **DRAWALS FROM QUALIFIED RETIREMENT**  
5 **PLANS UPON RECEIPT OF NOTICE OF FORE-**  
6 **CLOSURE ON A PRINCIPAL RESIDENCE.**

7 (a) IN GENERAL.—Paragraph (2) of section 72(t) of  
8 the Internal Revenue Code of 1986 (relating to subsection

1 not to apply to certain distributions) is amended by adding  
2 at the end the following new subparagraph:

3           “(H) QUALIFIED FORECLOSURE DISTRIBUTIONS.—Distributions to an individual which  
4           are qualified foreclosure distributions (as defined in paragraph (11)). Distributions shall  
5           not be taken into account under the preceding sentence if such distributions are described in  
6           subparagraph (A), (C), (D), (E), (F), or (G) or  
7           to the extent paragraph (1) does not apply to  
8           such distributions by reason of subparagraph  
9           (B).”.

13       (b) QUALIFIED FORECLOSURE DISTRIBUTIONS.—  
14 Subsection (t) of section 72 of such Code (relating to  
15 percent additional tax on early distributions from qualified  
16 retirement plans) is amended by adding at the end the  
17 following new paragraph:

18           “(11) QUALIFIED FORECLOSURE DISTRIBUTIONS.—For purposes of paragraph (2)(H)—

20           “(A) IN GENERAL.—The term ‘qualified  
21           foreclosure distribution’ means any payment or  
22           distribution received after July 31, 2007, and  
23           before January 1, 2011, by an individual after  
24           the individual has received a foreclosure notice  
25           relating to any mortgage on the principal resi-

1            dence (within the meaning of section 121) of  
2            the individual.

3            “(B) LIMITATION.—The amount of pay-  
4            ments or distributions received by an individual  
5            which may be treated as qualified foreclosure  
6            distributions for any taxable year shall not ex-  
7            ceed the excess (if any) of—

8                    “(i) \$30,000, over

9                    “(ii) the aggregate amounts treated as  
10            qualified foreclosure distributions with re-  
11            spect to such individual for all prior tax-  
12            able years.

13            “(C) AMOUNT DISTRIBUTED MAY BE RE-  
14            PAID.—

15                    “(i) IN GENERAL.—Any individual  
16            who receives a qualified foreclosure dis-  
17            tribution may, at any time during the 5-  
18            year period beginning on the day after the  
19            date on which such distribution was re-  
20            ceived, make one or more contributions in  
21            an aggregate amount not to exceed the  
22            amount of such distribution to an eligible  
23            retirement plan of which such individual is  
24            a beneficiary and to which a rollover con-  
25            tribution of such distribution could be

1 made under section 402(c), 403(a)(4),  
2 403(b)(8), 408(d)(3), or 457(e)(16), as the  
3 case may be.

4 “(ii) TREATMENT OF REPAYMENTS OF  
5 DISTRIBUTIONS FROM ELIGIBLE RETIRE-  
6 MENT PLANS OTHER THAN IRAS.—For  
7 purposes of this title, if a contribution is  
8 made pursuant to clause (i) with respect to  
9 a qualified foreclosure distribution from an  
10 eligible retirement plan other than an indi-  
11 vidual retirement plan, then the taxpayer  
12 shall, to the extent of the amount of the  
13 contribution, be treated as having received  
14 the qualified foreclosure distribution in an  
15 eligible rollover distribution (as defined in  
16 section 402(c)(4)) and as having trans-  
17 ferred the amount to the eligible retire-  
18 ment plan in a direct trustee to trustee  
19 transfer within 60 days of the distribution.

20 “(iii) TREATMENT OF REPAYMENTS  
21 FOR DISTRIBUTIONS FROM IRAS.—For  
22 purposes of this title, if a contribution is  
23 made pursuant to clause (i) with respect to  
24 a qualified foreclosure distribution from an  
25 individual retirement plan (as defined by

1 section 7701(a)(37)), then, to the extent of  
2 the amount of the contribution, the quali-  
3 fied foreclosure distribution shall be treat-  
4 ed as a distribution described in section  
5 408(d)(3) and as having been transferred  
6 to the eligible retirement plan in a direct  
7 trustee to trustee transfer within 60 days  
8 of the distribution.

9 “(D) INCOME INCLUSION SPREAD OVER 5-  
10 YEAR PERIOD.—

11 “(i) IN GENERAL.—In the case of any  
12 qualified foreclosure distribution, unless  
13 the taxpayer elects not to have this sub-  
14 paragraph apply for any taxable year, any  
15 amount required to be included in gross in-  
16 come for such taxable year shall be so in-  
17 cluded ratably over the 5-taxable-year pe-  
18 riod beginning with such taxable year.

19 “(ii) SPECIAL RULE.—For purposes of  
20 clause (i), rules similar to the rules of sub-  
21 paragraph (E) of section 408A(d)(3) shall  
22 apply.

23 “(E) SPECIAL RULES.—

24 “(i) EXEMPTION OF DISTRIBUTIONS  
25 FROM TRUSTEE TO TRUSTEE TRANSFER

1           AND WITHHOLDING RULES.—For purposes  
2           of sections 401(a)(31), 402(f), and 3405,  
3           qualified foreclosure distributions shall not  
4           be treated as eligible rollover distributions.

5           “(ii) QUALIFIED FORECLOSURE DIS-  
6           TRIBUTIONS TREATED AS MEETING PLAN  
7           DISTRIBUTION REQUIREMENTS.—For pur-  
8           poses this title, a qualified foreclosure dis-  
9           tribution shall be treated as meeting the  
10          requirements of sections 401(k)(2)(B)(i),  
11          403(b)(7)(A)(ii),      403(b)(11),      and  
12          457(d)(1)(A).”.

13          (c) EFFECTIVE DATE.—The amendments made by  
14          this section shall take effect on the date of the enactment  
15          of this Act.

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