

119TH CONGRESS
1ST SESSION

S. 1987

To amend the Internal Revenue Code of 1986 to provide special rules for purposes of determining if financial guaranty insurance companies are qualifying insurance corporations under the passive foreign investment company rules.

IN THE SENATE OF THE UNITED STATES

JUNE 9, 2025

Mr. CASSIDY (for himself and Mr. MARSHALL) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide special rules for purposes of determining if financial guaranty insurance companies are qualifying insurance corporations under the passive foreign investment company rules.

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. TREATMENT OF FINANCIAL GUARANTY INSUR-**
 2 **ANCE COMPANIES AS QUALIFYING INSUR-**
 3 **ANCE CORPORATIONS UNDER PASSIVE FOR-**
 4 **EIGN INVESTMENT COMPANY RULES.**

5 (a) IN GENERAL.—Section 1297(f)(3) of the Internal
 6 Revenue Code of 1986 is amended by adding at the end
 7 the following new subparagraph:

8 “(C) SPECIAL RULES FOR FINANCIAL
 9 GUARANTY INSURANCE COMPANIES.—

10 “(i) IN GENERAL.—Notwithstanding
 11 subparagraphs (A)(ii) and (B), the applica-
 12 ble insurance liabilities of a financial guar-
 13 anty insurance company shall include its
 14 unearned premium reserves if—

15 “(I) such company is prohibited
 16 under generally accepted accounting
 17 principles from reporting on its appli-
 18 cable financial statements reserves for
 19 losses and loss adjustment expenses
 20 with respect to a financial guaranty
 21 insurance or reinsurance contract ex-
 22 cept to the extent that losses and loss
 23 adjustment expenses are expected to
 24 exceed the unearned premium reserves
 25 on the contract,

1 “(II) the applicable financial
 2 statement of such company reports fi-
 3 nancial guaranty exposure of at least
 4 15-to-1 or State or local bond expo-
 5 sure of at least 9-to-1, and

6 “(III) such company includes in
 7 its insurance liabilities only its un-
 8 earned premium reserves relating to
 9 insurance written or assumed that is
 10 within the single risk limits set forth
 11 in subsection (D) of section 4 of the
 12 Financial Guaranty Insurance Guide-
 13 line (modified by using total share-
 14 holder’s equity as reported on the ap-
 15 plicable financial statement of the
 16 company rather than aggregate of the
 17 surplus to policyholders and contin-
 18 gency reserves).

19 “(ii) APPLICATION OF ALTERNATIVE
 20 FACTS AND CIRCUMSTANCES TEST.—A fi-
 21 nancial guaranty insurance company shall
 22 be treated as satisfying the requirements
 23 of paragraph (2)(B).

24 “(iii) FINANCIAL GUARANTY INSUR-
 25 ANCE COMPANY.—For purposes of this

subparagraph, the term ‘financial guaranty insurance company’ means any insurance company the sole business of which is writing or reinsuring financial guaranty insurance (as defined in subsection (A) of section 1 of the Financial Guaranty Insurance Guideline) which is permitted under subsection (B) of section 4 of such Guideline.

“(iv) FINANCIAL GUARANTY EXPOSURE.—For purposes of this subparagraph, the term ‘financial guaranty exposure’ means the ratio of—

“(I) the net debt service outstanding insured or reinsured by the company that is within the single risk limits set forth in the Financial Guaranty Insurance Guideline (as reported on such company’s applicable financial statement), to

“(II) the company’s total assets (as so reported).

“(v) STATE OR LOCAL BOND EXPOSURE.—For purposes of this subparagraph, the term ‘State or local bond exposure’ means the ratio of—

1 “(I) the net unpaid principal of
2 State or local bonds (as defined in
3 section 103(c)(1)) insured or rein-
4 sured by the company that is within
5 the single risk limits set forth in the
6 Financial Guaranty Insurance Guide-
7 line (as reported on such company’s
8 applicable financial statement), to

9 “(II) the company’s total assets
10 (as so reported).

11 “(vi) FINANCIAL GUARANTY INSUR-
12 ANCE GUIDELINE.—For purposes of this
13 subparagraph—

14 “(I) IN GENERAL.—The term
15 ‘Financial Guaranty Insurance Guide-
16 line’ means the October 2008 model
17 regulation that was adopted by the
18 National Association of Insurance
19 Commissioners on December 4, 2007.

20 “(II) DETERMINATIONS MADE BY
21 SECRETARY.—The determination of
22 whether any provision of the Financial
23 Guaranty Insurance Guideline has
24 been satisfied shall be made by the
25 Secretary.”.

1 (b) REPORTING OF CERTAIN ITEMS.—Section
 2 1297(f)(4) of such Code is amended by adding at the end
 3 the following new subparagraph:

4 “(C) CLARIFICATION THAT CERTAIN ITEMS
 5 ON APPLICABLE FINANCIAL STATEMENT BE
 6 SEPARATELY REPORTED WITH RESPECT TO
 7 CORPORATION.—An amount described in para-
 8 graph (1)(B) or clause (i)(II), (i)(III), (iv)(I),
 9 (iv)(II), (v)(I), or (v)(II) of paragraph (3)(C)
 10 shall be treated as reported on an applicable fi-
 11 nancial statement for purposes of this section
 12 if—

13 “(i) such amount is separately re-
 14 ported on such statement with respect to
 15 the corporation referred to in paragraph
 16 (1), or

17 “(ii) such amount is separately deter-
 18 mined for purposes of calculating an
 19 amount which is reported on such state-
 20 ment.

21 “(D) AUTHORITY OF SECRETARY TO RE-
 22 QUIRE REPORTING.—

23 “(i) IN GENERAL.—Each United
 24 States person who owns an interest in a
 25 specified non-publicly traded foreign cor-

poration and who takes the position that such corporation is not a passive foreign investment company shall report to the Secretary such information with respect to such corporation as the Secretary may require.

“(ii) SPECIFIED NON-PUBLICLY TRADED FOREIGN CORPORATION.—For purposes of this subparagraph, the term ‘specified non-publicly traded foreign corporation’ means any foreign corporation—

“(I) which would be a passive foreign investment company if subsection (b)(2)(B) did not apply, and

“(II) no interest in which is traded on an established securities market.”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 2024.

(2) REPORTING.—The amendment made by subsection (b) shall apply to reports made after December 31, 2024.

1 (3) CERTAIN FINANCIAL GUARANTEE INSUR-
2 ANCE COMPANIES NOT TREATED AS PASSIVE FOR-
3 EIGN INVESTMENT COMPANIES MERELY BY REASON
4 OF STATUS IN CERTAIN PRIOR TAXABLE YEARS.—

5 (A) IN GENERAL.—In the case of any tax-
6 able year of a qualified financial guarantee in-
7 surance company beginning after December 31,
8 2024, section 1298(b)(1) of the Internal Rev-
9 enue Code of 1986 shall be applied to stock
10 held by any taxpayer in such company by treat-
11 ing the specified grace period with respect to
12 such company as not part of such taxpayer’s
13 holding period of such stock.

14 (B) QUALIFIED FINANCIAL GUARANTEE
15 INSURANCE COMPANY.—For purposes of this
16 paragraph, the term “qualified financial guar-
17 antee insurance company” means any financial
18 guarantee insurance company (as defined in
19 subparagraph (C) of section 1297(f)(3) of the
20 Internal Revenue Code of 1986, as added by
21 this section) which would not be a passive for-
22 eign investment company if—

23 (i) such subparagraph applied to the
24 specified grace period, and

1 (ii) in the case of any taxable year
2 ending before January 1, 2019, clause
3 (i)(II) of such subparagraph were applied
4 by substituting “8-to-1” for “9-to-1”.

5 (C) SPECIFIED GRACE PERIOD.—For pur-
6 poses of this paragraph, the term “specified
7 grace period” means, with respect to any finan-
8 cial guarantee insurance company, the period
9 beginning with such company’s first taxable
10 year beginning after December 31, 2017, and
11 ending with such company’s last taxable year
12 beginning before January 1, 2025.

13 (D) REGULATIONS AND OTHER GUID-
14 ANCE.—The Secretary of the Treasury (or the
15 Secretary’s delegate) shall issue such regula-
16 tions or other guidance as may be necessary or
17 appropriate to provide for the proper treatment
18 of any financial guarantee insurance company
19 which ceases to be treated as a passive foreign
20 investment company by reason of subparagraph
21 (A), including regulations or other guidance
22 which provide for—

23 (i) an opportunity for the revocation
24 of any election made under section 1295(b)

1 or 1296(k) of the Internal Revenue Code
2 of 1986, and

3 (ii) the application of section 1293(c)
4 of such Code to periods after such com-
5 pany ceases to be treated as a passive for-
6 eign investment company.

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