

105TH CONGRESS
1ST SESSION

H. R. 2026

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 1997

Mr. KENNEDY of Massachusetts (for himself, Mr. BEREUTER, Mr. CANADY of Florida, Mr. CLYBURN, Mr. DELAHUNT, Mr. DELLUMS, Mr. EVANS, Mr. FATTAH, Mr. FILNER, Mr. FOX of Pennsylvania, Mr. FROST, Ms. HOOLEY of Oregon, Mr. KANJORSKI, Ms. KILPATRICK, Ms. LOFGREN, Mrs. MALONEY of New York, Mr. SISISKY, and Mr. TORRES) 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 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 1997”.

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 such owners or
13 in the home of family members who are first-time home-
14 buyers.

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

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

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

1 “(1) IN GENERAL.—The prohibitions provided
2 in subsection (c) shall not apply to any qualified
3 home equity participation arrangement to the extent
4 that the amount paid to acquire the ownership inter-
5 est referred to paragraph (2)(A) does not exceed
6 \$10,000.

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

9 “(A) IN GENERAL.—The term ‘qualified
10 home equity participation arrangement’ means
11 an arrangement—

12 “(i) under which the trustee of an in-
13 dividual retirement plan, at the direction of
14 the eligible participant, shall acquire an
15 ownership interest in any dwelling unit
16 which within a reasonable period of time
17 (determined at the time the arrangement is
18 executed) is to be used as the principal res-
19 idence for a first-time homebuyer, and

20 “(ii) which meets the requirements of
21 subparagraph (B) of this paragraph.

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

1 “(i) is a fee interest in such property
 2 (and, in the case of an arrangement which
 3 is not otherwise at arm’s length, the trust-
 4 ee’s fee interest would be reasonable in an
 5 arm’s length arrangement),

6 “(ii) by its terms requires repayment
 7 in full upon the sale or other transfer of
 8 the dwelling unit, and

9 “(iii) may not be used as security for
 10 any loan secured by any interest in the
 11 dwelling unit.

12 “(3) DEFINITIONS.—For purposes of this sub-
 13 section—

14 “(A) ELIGIBLE PARTICIPANT.—The term
 15 ‘eligible participant’ means an individual on
 16 whose behalf an individual retirement plan is
 17 established.

18 “(B) FIRST-TIME HOMEBUYER.—The term
 19 ‘first-time homebuyer’ means an individual
 20 who—

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

23 “(ii) had (and if married, such indi-
 24 vidual’s spouse had) no present ownership
 25 interest in a principal residence at any

1 time during the 36-month period before
2 the date of the arrangement.

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

11 “(D) ACQUISITION; ETC.—

12 “(i) ACQUISITION.—The term ‘acqui-
13 sition’ includes construction, reconstruc-
14 tion, and improvement related to such ac-
15 quisition.

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

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

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to arrangements entered into after
24 the date of the enactment of this Act.

1 **SEC. 4. LOANS USED TO ACQUIRE PRINCIPAL RESIDENCES**
2 **FOR FIRST-TIME HOMEBUYERS.**

3 (a) INDIVIDUAL RETIREMENT PLANS.—Section
4 408(e) of the Internal Revenue Code of 1986 (relating to
5 tax treatment of accounts and annuities) is amended by
6 adding at the end thereof the following new paragraph:

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

9 “(A) IN GENERAL.—Paragraph (3) shall
10 not apply to any qualified home purchase loan
11 made by an individual retirement plan.

12 “(B) QUALIFIED HOME PURCHASE
13 LOAN.—For purposes of this paragraph, the
14 term ‘qualified home purchase loan’ means a
15 loan—

16 “(i) made by the trustee of an individ-
17 ual retirement plan at the direction of the
18 individual on whose behalf such plan is es-
19 tablished,

20 “(ii) the proceeds of which are used
21 for the acquisition of a dwelling unit which
22 within a reasonable period of time (deter-
23 mined at the time the loan is made) is to
24 be used as the principal residence for a
25 first-time homebuyer,

1 “(iii) which by its terms requires re-
2 payment in full not later than the earlier
3 of—

4 “(I) the date which is 15 years
5 after the date of acquisition of the
6 dwelling unit, or

7 “(II) the date of the sale or other
8 transfer of the dwelling unit,

9 “(iv) which by its terms treats any
10 amount remaining unpaid in the taxable
11 year beginning after the period described
12 in clause (iii) as distributed in such taxable
13 year to the individual on whose behalf such
14 plan is established and subject to section
15 72(t)(1), and

16 “(v) which bears interest from the
17 date of the loan at a rate not less than 2
18 percentage points below, and not more
19 than 2 percentage points above, the rate
20 for comparable United States Treasury ob-
21 ligations on such date.

22 Nothing in this paragraph shall be construed to
23 require such a loan to be secured by the dwell-
24 ing unit.

1 “(C) LIMITATION ON AMOUNT OF
2 LOANS.—The amount of borrowings to which
3 paragraph (3) does not apply by reason of this
4 paragraph shall not exceed \$10,000.

5 “(D) DENIAL OF INTEREST DEDUCTION.—
6 No deduction shall be allowed under this chap-
7 ter for interest on any qualified home purchase
8 loan.

9 “(E) DEFINITIONS.—For purposes of this
10 paragraph—

11 “(i) FIRST-TIME HOMEBUYER.—The
12 term ‘first-time homebuyer’ has the mean-
13 ing given such term by section
14 4975(h)(3)(B).

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

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

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

23 “(I) on which a binding contract
24 to acquire the principal residence to

1 which subparagraph (B) applies is en-
2 tered into, or

3 “(II) on which construction, re-
4 construction, or improvement of such
5 a principal residence is commenced.”.

6 (b) PROHIBITED TRANSACTION.—Section 4975(d) of
7 the Internal Revenue Code of 1986 (relating to exemptions
8 from tax on prohibited transactions) is amended by strik-
9 ing “or” at the end of paragraph (14), by striking the
10 period at the end of paragraph (15) and inserting “; or”,
11 and by inserting after paragraph (15) the following new
12 paragraph:

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

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to loans made after the date of
17 the enactment of this Act.

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