

106TH CONGRESS
1ST SESSION

S. 1994

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

IN THE SENATE OF THE UNITED STATES

NOVEMBER 19, 1999

Mr. KERRY (for himself and Mr. BRYAN) 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 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 1999”.

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

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

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

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

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

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

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

21 “(h) SPECIAL RULE FOR HOME EQUITY PARTICIPA-
 22 TION ARRANGEMENTS.—

23 “(1) IN GENERAL.—The prohibitions provided
 24 in subsection (c) shall not apply to any qualified
 25 home equity participation arrangement to the extent

1 that the amount paid to acquire the ownership inter-
 2 est referred to paragraph (2)(A) does not exceed
 3 \$10,000.

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 any dwelling unit
 13 which within a reasonable period of time
 14 (determined at the time the arrangement is
 15 executed) is to be used as the principal res-
 16 idence for a first-time homebuyer, and

17 “(ii) which meets the requirements of
 18 subparagraph (B).

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

23 “(i) is a fee interest in such property
 24 (and, in the case of an arrangement which
 25 is not otherwise at arm’s length, the trust-

1 ee's fee interest would be reasonable in an
 2 arm's length arrangement),

3 "(ii) by its terms requires repayment
 4 in full upon the sale or other transfer of
 5 the dwelling unit, and

6 "(iii) may not be used as security for
 7 any loan secured by any interest in the
 8 dwelling unit.

9 "(3) DEFINITIONS.—For purposes of this
 10 subsection—

11 "(A) ELIGIBLE PARTICIPANT.—The term
 12 'eligible participant' means an individual on
 13 whose behalf an individual retirement plan is
 14 established.

15 "(B) FIRST-TIME HOMEBUYER.—The term
 16 'first-time homebuyer' means an individual
 17 who—

18 "(i) is an eligible participant or quali-
 19 fied family member, and

20 "(ii) had (and if married, such indi-
 21 vidual's spouse had) no present ownership
 22 interest in a principal residence at any
 23 time during the 24-month period before
 24 the date of the arrangement.

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

9 “(D) ACQUISITION; ETC.—

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

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

17 “(E) PRINCIPAL RESIDENCE.—The term
 18 ‘principal residence’ has the same meaning as
 19 when used in section 121.”.

20 (b) EFFECTIVE DATE.—The amendment made by
 21 this section shall apply to arrangements entered into after
 22 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 indi-
 17 vidual retirement plan at the direction of
 18 the individual on whose behalf such plan is
 19 established,

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 in-
 2 terest on the loan to be paid not less fre-
 3 quently than monthly,

4 “(iv) which by its terms requires re-
 5 payment in full not later than the earlier
 6 of—

7 “(I) the date which is 15 years
 8 after the date of acquisition of the
 9 dwelling unit, or

10 “(II) the date of the sale or other
 11 transfer of the dwelling unit,

12 “(v) which by its terms treats—

13 “(I) any amount required to be
 14 paid under clause (iii) during any tax-
 15 able year which is not paid at the
 16 time required to be paid, and

17 “(II) any amount remaining un-
 18 paid as of the beginning of the taxable
 19 year beginning after the period de-
 20 scribed in clause (iv),

21 as distributed during such taxable year to
 22 the individual on whose behalf such plan is
 23 established and subject to section 72(t)(1),
 24 and

1 “(vi) which bears interest from the
 2 date of the loan at a rate not less than 2
 3 percentage points below, and not more
 4 than 2 percentage points above, the rate
 5 for comparable United States Treasury ob-
 6 ligations on such date.

7 Nothing in this paragraph shall be construed to
 8 require such a loan to be secured by the dwell-
 9 ing unit.

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

14 “(D) DENIAL OF INTEREST DEDUCTION.—
 15 No deduction shall be allowed under this chap-
 16 ter for interest on any qualified home purchase
 17 loan.

18 “(E) DEFINITIONS.—For purposes of this
 19 paragraph—

20 “(i) FIRST-TIME HOMEBUYER.—The
 21 term ‘first-time homebuyer’ has the mean-
 22 ing given such term by section
 23 4975(h)(3)(B).

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

4 “(iii) PRINCIPAL RESIDENCE.—The
 5 term ‘principal residence’ has the same
 6 meaning as when used in section 121.

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

9 “(I) on which a binding contract
 10 to acquire the principal residence to
 11 which subparagraph (B) applies is en-
 12 tered into, or

13 “(II) on which construction, re-
 14 construction, or improvement of such
 15 a principal residence is commenced.”.

16 (b) PROHIBITED TRANSACTION.—Section 4975(d) of
 17 the Internal Revenue Code of 1986 (relating to exemptions
 18 from tax on prohibited transactions) is amended by strik-
 19 ing “or” at the end of paragraph (14), by striking the
 20 period at the end of paragraph (15) and inserting “; or”,
 21 and by inserting after paragraph (15) the following new
 22 paragraph:

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

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to loans made after the date of
3 the enactment of this Act.

