

108TH CONGRESS
2D SESSION

S. 2835

To amend the Internal Revenue Code of 1986 to allow penalty free withdrawals from retirement plans for victims of federally declared natural disasters.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 23, 2004

Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida) 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 allow penalty free withdrawals from retirement plans for victims of federally declared natural disasters.

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. PENALTY FREE WITHDRAWALS FROM RETIRE-**
4 **MENT PLANS FOR VICTIMS OF FEDERALLY**
5 **DECLARED NATURAL DISASTERS.**

6 (a) IN GENERAL.—Paragraph (2) of section 72(t) of
7 the Internal Revenue Code of 1986 (relating to 10-percent
8 additional tax on early distributions from qualified retire-

1 ment plans) is amended by adding at the end the following
 2 new subparagraph:

3 “(G) DISTRIBUTIONS FROM RETIREMENT
 4 PLANS TO VICTIMS OF FEDERALLY DECLARED
 5 NATURAL DISASTERS.—

6 “(i) IN GENERAL.—Any qualified dis-
 7 aster-relief distribution.

8 “(ii) AMOUNT DISTRIBUTED MAY BE
 9 REPAID.—Any individual who receives a
 10 qualified disaster-relief distribution may, at
 11 any time during the 5-year period begin-
 12 ning on the day after the date on which
 13 such distribution was made, make one or
 14 more contributions to an individual retire-
 15 ment plan of such individual in an aggre-
 16 gate amount not to exceed the amount of
 17 such distribution. The dollar limitations
 18 otherwise applicable to contributions to in-
 19 dividual retirement plans shall not apply to
 20 any contribution made pursuant to the
 21 preceding sentence. No deduction shall be
 22 allowed for any contribution pursuant to
 23 this clause.

24 “(iii) QUALIFIED DISASTER-RELIEF
 25 DISTRIBUTION.—For purposes of this sub-

paragraph, the term ‘qualified disaster-relief distribution’ means any distribution to an individual who has sustained a loss in excess of \$100 as a result of a major disaster declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act—

“(I) if such distribution is made during the 1-year period beginning on the date such declaration is made, and

“(II) to the extent such distribution does not exceed the amount of such loss and is not compensated for by insurance or otherwise.

For purposes of subclause (II), the amount of any loss shall be determined using the greater of the fair market value of the property on the day before the date of such disaster or the adjusted basis of the property as provided in section 1011.”.

(b) EXEMPTION OF DISTRIBUTIONS FROM WITH-
HOLDING.—Paragraph (4) of section 402(c) of the Internal Revenue Code of 1986 (relating to eligible rollover distribution) is amended by striking “and” at the end of subparagraph (B), by striking the period at the end of sub-

1 paragraph (C) and inserting “, and”, and by inserting at
 2 the end the following new subparagraph:

3 “(D) any qualified disaster-relief distribu-
 4 tion (within the meaning of section
 5 72(t)(2)(G)).”.

6 (c) CONFORMING AMENDMENTS.—

7 (1) Section 401(k)(2)(B)(i) of the Internal Rev-
 8 enue Code of 1986 is amended by striking “or” at
 9 the end of subclause (III), by striking “and” at the
 10 end of subclause (IV) and inserting “or”, and by in-
 11 serting after subclause (IV) the following new sub-
 12 clause:

13 “(V) the date on which a period
 14 referred to in section
 15 72(t)(2)(G)(iii)(I) begins (but only to
 16 the extent provided in section
 17 72(t)(2)(G)), and”.

18 (2) Section 403(b)(7)(A)(ii) of such Code is
 19 amended by inserting “sustains a loss as a result of
 20 a major disaster declared under the Robert T. Staf-
 21 ford Disaster Relief and Emergency Assistance Act
 22 (but only to the extent provided in section
 23 72(t)(2)(G)),” before “or”.

24 (3) Section 403(b)(11) of such Code is amend-
 25 ed by striking “or” at the end of subparagraph (A),

1 by striking the period at the end of subparagraph
2 (B) and inserting “, or”, and by inserting after sub-
3 paragraph (B) the following new subparagraph:

4 “(C) for distributions to which section
5 72(t)(2)(G) applies.”.

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to distributions received in taxable
8 years beginning after December 31, 2003.

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