II

114TH CONGRESS
2D SESSION

S. 3358

To provide special rules for the use of retirement funds for relief relating to severe flooding in the Mississippi Delta.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 20, 2016

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

A BILL

To provide special rules for the use of retirement funds for relief relating to severe flooding in the Mississippi Delta.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘‘Flood Emergency Tax Relief Act of 2016 (FLETRA)’’.

SEC. 2. SPECIAL RULES FOR USE OF RETIREMENT FUNDS WITH RESPECT TO MISSISSIPPI DELTA AREAS DAMAGED BY 2016 FLOODING.

(a) TAX-FAVORED WITHDRAWALS FROM RETIREMENT PLANS.—

(1) IN GENERAL.—Section 72(t) of the Internal Revenue Code of 1986 shall not apply to any qualified Mississippi River Delta flooding distribution.

(2) AGGREGATE DOLLAR LIMITATION.—

(A) IN GENERAL.—For purposes of this subsection, the aggregate amount of distributions received by an individual which may be treated as qualified Mississippi River Delta flooding distributions for any taxable year shall not exceed the excess (if any) of—

(i) $100,000, over

(ii) the aggregate amounts treated as qualified Mississippi River Delta flooding distributions received by such individual for all prior taxable years.

(B) TREATMENT OF PLAN DISTRIBUTIONS.—If a distribution to an individual would (without regard to subparagraph (A)) be a qualified Mississippi River Delta flooding distribution, a plan shall not be treated as violating any requirement of this title merely because the plan treats such distribution as a qualified Mississippi River Delta flooding distribution, unless the aggregate amount of such distributions from all plans maintained by the employer (and any member of any controlled group which includes the employer) to such individual exceeds $100,000.

(C) CONTROLLED GROUP.—For purposes of subparagraph (B), the term "controlled group" means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986.

(3) AMOUNT DISTRIBUTED MAY BE REPAID.—

(A) IN GENERAL.—Any individual who receives a qualified Mississippi River Delta flooding distribution may, at any time during the 3-year period beginning on the day after the date on which such distribution was received, make one or more contributions in an aggregate amount not to exceed the amount of such distribution to an eligible retirement plan of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16) of the Internal Revenue Code of 1986, as the case may be.

(B) TREATMENT OF REPAYMENTS OF DISTRIBUTIONS FROM ELIGIBLE RETIREMENT PLANS OTHER THAN IRAS.—For purposes of this title, if a contribution is made pursuant to subparagraph (A) with respect to a qualified Mississippi River Delta flooding distribution from an eligible retirement plan other than an individual retirement plan, then the taxpayer shall, to the extent of the amount of the contribution, be treated as having received the qualified Mississippi River Delta flooding distribution in an eligible rollover distribution (as defined in section 402(c)(4) of the Internal Revenue Code of 1986) and as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

(C) TREATMENT OF REPAYMENTS FOR DISTRIBUTIONS FROM IRAS.—For purposes of this title, if a contribution is made pursuant to subparagraph (A) with respect to a qualified Mississippi River Delta flooding distribution from an individual retirement plan (as defined by section 7701(a)(37) of the Internal Revenue Code of 1986), then, to the extent of the amount of the contribution, the qualified Mississippi River Delta flooding distribution shall be treated as a distribution described in section 408(d)(3) of such Code and as having been transferred to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

(4) DEFINITIONS.—For purposes of this subsection—

(A) QUALIFIED MISSISSIPPI RIVER DELTA FLOODING DISTRIBUTION.—Except as provided in paragraph (2), the term ''qualified Mississippi River Delta flooding distribution'' means any distribution from an eligible retirement plan made on or after August 11, 2016, and before January 1, 2018, to an individual whose principal place of abode on August 11, 2016, is located in the Mississippi River Delta disaster area and who has sustained an economic loss by reason of the severe storms and flooding giving rise to the Presidential declaration described in subsection (c).

(B) ELIGIBLE RETIREMENT PLAN.—The term ''eligible retirement plan'' shall have the meaning given such term by section

402(c)(8)(B) of the Internal Revenue Code of 1986.

(5) INCOME INCLUSION SPREAD OVER 3-YEAR PERIOD.—

(A) IN GENERAL.—In the case of any qualified Mississippi River Delta flooding distribution, unless the taxpayer elects not to have this paragraph apply for any taxable year, any amount required to be included in gross income for such taxable year shall be so included ratably over the 3-taxable-year period beginning with such taxable year.

(B) SPECIAL RULE.—For purposes of subparagraph (A), rules similar to the rules of subparagraph (E) of section 408A(d)(3) of the Internal Revenue Code of 1986 shall apply.

(6) SPECIAL RULES.—

(A) EXEMPTION OF DISTRIBUTIONS FROM TRUSTEE TO TRUSTEE TRANSFER AND WITHHOLDING RULES.—For purposes of sections 401(a)(31), 402(f), and 3405 of the Internal Revenue Code of 1986, qualified Mississippi River Delta flooding distributions shall not be treated as eligible rollover distributions.

(B) QUALIFIED MISSISSIPPI RIVER DELTA FLOODING DISTRIBUTIONS TREATED AS MEETING PLAN DISTRIBUTION REQUIREMENTS.—For purposes of this title, a qualified Mississippi River Delta flooding distribution shall be treated as meeting the requirements of sections 401(k)(2)(B)(i), 403(b)(7)(A)(ii), 403(b)(11), and 457(d)(1)(A) of the Internal Revenue Code of 1986.

(b) PROVISIONS RELATING TO PLAN AMENDMENTS.—

(1) IN GENERAL.—If this subsection applies to any amendment to any plan or annuity contract, such plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in paragraph (2)(B)(i).

(2) AMENDMENTS TO WHICH SUBSECTION APPLIES.—

(A) IN GENERAL.—This subsection shall apply to any amendment to any plan or annuity contract which is made—

(i) pursuant to any provision of this section, or pursuant to any regulation issued by the Secretary or the Secretary of

Labor under any provision of this section; and

(ii) on or before the last day of the first plan year beginning on or after January 1, 2018, or such later date as the Secretary may prescribe.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), clause (ii) shall be applied by substituting the date which is 2 years after the date otherwise applied under clause (ii).

(B) CONDITIONS.—This subsection shall not apply to any amendment unless—

(i) during the period—

(I) beginning on the date that this section or the regulation described in subparagraph (A)(i) takes effect (or in the case of a plan or contract amendment not required by this section or such regulation, the effective date specified by the plan); and

(II) ending on the date described in subparagraph (A)(ii) (or, if earlier, the date the plan or contract amendment is adopted), the plan or contract is operated as if such plan or contract amendment were in effect; and

(ii) such plan or contract amendment applies retroactively for such period.

(c) MISSISSIPPI RIVER DELTA FLOOD DISASTER AREA.—For purposes of this section, the term ''Mississippi River Delta flood disaster area'' means the area with respect to which a major disaster has been declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of severe storms or flooding occurring in the State of Louisiana on or after August 11, 2016, and before September 1, 2016.

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