

116TH CONGRESS
2D SESSION

H. R. 8314

To provide with respect to recent disasters an employee retention credit for employers affected by such disasters and rules for disaster-related personal casualty losses.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 2020

Ms. FINKENAUER introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide with respect to recent disasters an employee retention credit for employers affected by such disasters and rules for disaster-related personal casualty losses.

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 “Disaster Recovery for
5 Economies, Local Individuals, Employers, and Families
6 Act of 2020” or the “Disaster RELIEF Act”.

7 **SEC. 2. DEFINITIONS.**

8 For purposes of this Act—

1 (1) QUALIFIED DISASTER AREA.—

2 (A) IN GENERAL.—The term “qualified
3 disaster area” means any area with respect to
4 which a major disaster was declared, during the
5 period beginning on December 28, 2019, and
6 ending on the date which is 60 days after the
7 date of the enactment of this Act, by the Presi-
8 dent under section 401 of the Robert T. Staf-
9 ford Disaster Relief and Emergency Assistance
10 Act if the incident period of the disaster with
11 respect to which such declaration is made be-
12 gins on or before the date of the enactment of
13 this Act.

14 (B) COVID-19 EXCEPTION.—Such term
15 shall not include any area with respect to which
16 such a major disaster has been so declared only
17 by reason of COVID-19.

18 (2) QUALIFIED DISASTER ZONE.—The term
19 “qualified disaster zone” means that portion of any
20 qualified disaster area which was determined by the
21 President, during the period beginning on December
22 28, 2019, and ending on the date which is 60 days
23 after the date of the enactment of this Act, to war-
24 rant individual or individual and public assistance
25 from the Federal Government under the Robert T.

1 Stafford Disaster Relief and Emergency Assistance
2 Act by reason of the qualified disaster with respect
3 to such disaster area.

4 (3) QUALIFIED DISASTER.—The term “quali-
5 fied disaster” means, with respect to any qualified
6 disaster area, the disaster by reason of which a
7 major disaster was declared with respect to such
8 area.

9 (4) INCIDENT PERIOD.—The term “incident pe-
10 riod” means, with respect to any qualified disaster,
11 the period specified by the Federal Emergency Man-
12 agement Agency as the period during which such
13 disaster occurred (except that for purposes of this
14 Act such period shall not be treated as beginning be-
15 fore December 28, 2019, or ending after the date
16 which is 30 days after the date of the enactment of
17 this Act).

18 **SEC. 3. EMPLOYEE RETENTION CREDIT FOR EMPLOYERS**

19 **AFFECTED BY QUALIFIED DISASTERS.**

20 (a) IN GENERAL.—For purposes of section 38 of the
21 Internal Revenue Code of 1986, in the case of an eligible
22 employer, the 2020 qualified disaster employee retention
23 credit shall be treated as a credit listed at the end of sub-
24 section (b) of such section. For purposes of this sub-
25 section, the 2020 qualified disaster employee retention

1 credit for any taxable year is an amount equal to 40 per-
2 cent of the qualified wages with respect to each eligible
3 employee of such employer for such taxable year. The
4 amount of qualified wages with respect to any employee
5 which may be taken into account under this subsection
6 by the employer for any taxable year shall not exceed
7 \$6,000 (reduced by the amount of qualified wages with
8 respect to such employee which may be so taken into ac-
9 count for any prior taxable year).

10 (b) DEFINITIONS.—For purposes of this section—

11 (1) ELIGIBLE EMPLOYER.—The term “eligible
12 employer” means any employer—

13 (A) which conducted an active trade or
14 business in a qualified disaster zone at any time
15 during the incident period of the qualified dis-
16 aster with respect to such qualified disaster
17 zone, and

18 (B) with respect to whom the trade or
19 business described in subparagraph (A) is inop-
20 erable at any time during the period beginning
21 on the first day of the incident period of such
22 qualified disaster and ending on the date of the
23 enactment of this Act, as a result of damage
24 sustained by reason of such qualified disaster.

1 (2) ELIGIBLE EMPLOYEE.—The term “eligible
2 employee” means with respect to an eligible em-
3 ployer an employee whose principal place of employ-
4 ment with such eligible employer (determined imme-
5 diately before the qualified disaster referred to in
6 paragraph (1)) was in the qualified disaster zone re-
7 ferred to in such paragraph.

8 (3) QUALIFIED WAGES.—The term “qualified
9 wages” means wages (as defined in section 51(c)(1)
10 of the Internal Revenue Code of 1986, but without
11 regard to section 3306(b)(2)(B) of such Code) paid
12 or incurred by an eligible employer with respect to
13 an eligible employee at any time on or after the date
14 on which the trade or business described in para-
15 graph (1) first became inoperable at the principal
16 place of employment of the employee (determined
17 immediately before the qualified disaster referred to
18 in such paragraph) and before the earlier of—

19 (A) the date on which such trade or busi-
20 ness has resumed significant operations at such
21 principal place of employment, or

22 (B) the date which 150 days after the last
23 day of the incident period of the qualified dis-
24 aster referred to in paragraph (1).

1 Such term shall include wages paid without regard
2 to whether the employee performs no services, per-
3 forms services at a different place of employment
4 than such principal place of employment, or per-
5 forms services at such principal place of employment
6 before significant operations have resumed. Such
7 term shall not include any wages taken into account
8 under section 2301 of the Coronavirus Aid, Relief,
9 and Economic Security Act.

10 (c) SPECIAL RULES.—

11 (1) EMPLOYEE NOT TAKEN INTO ACCOUNT
12 MORE THAN ONCE.—An employee shall not be treat-
13 ed as an eligible employee for purposes of this sub-
14 section for any period with respect to any employer
15 if such employer is allowed a credit under section 51
16 of the Internal Revenue Code of 1986 with respect
17 to such employee for such period.

18 (2) DENIAL OF DOUBLE BENEFIT.—Any wages
19 taken into account in determining the credit allowed
20 under this section shall not be taken into account as
21 wages for purposes of sections 41, 45A, 45P, 45S,
22 51, and 1396 of the Internal Revenue Code of 1986.

23 (3) CERTAIN OTHER RULES TO APPLY.—For
24 purposes of this subsection, rules similar to the rules

1 of sections 51(i)(1), 52, and 280C(a), of the Internal
2 Revenue Code of 1986, shall apply.

3 (d) ELECTION TO NOT TAKE CERTAIN WAGES INTO
4 ACCOUNT.—

5 (1) IN GENERAL.—This section shall not apply
6 to qualified wages paid by an eligible employer with
7 respect to which such employer makes an election
8 (at such time and in such manner as the Secretary
9 may prescribe) to have this section not apply to such
10 wages.

11 (2) COORDINATION WITH PAYCHECK PROTEC-
12 TION PROGRAM.—The Secretary, in consultation
13 with the Administrator of the Small Business Ad-
14 ministration, shall issue guidance providing that
15 payroll costs paid or incurred during the covered pe-
16 riod shall not fail to be treated as qualified wages
17 under this section by reason of an election under
18 paragraph (1) to the extent that a covered loan of
19 the eligible employer is not forgiven by reason of a
20 decision under section 1106(g) of the CARES Act.
21 Terms used in the preceding sentence which are also
22 used in section 1106 of such Act shall have the same
23 meaning as when used in such section.

24 (e) AMENDMENT TO PAYCHECK PROTECTION PRO-
25 GRAM.—Section 1106(a)(8) of the CARES Act is amended

1 by inserting “, except that such costs shall not include
 2 qualified wages taken into account in determining the
 3 credit allowed under section 4 of the Disaster RELIEF
 4 Act” before the period at the end.

5 **SEC. 4. SPECIAL RULES FOR QUALIFIED DISASTER-RE-**
 6 **LATED PERSONAL CASUALTY LOSSES.**

7 (a) IN GENERAL.—If an individual has a net disaster
 8 loss for any taxable year—

9 (1) the amount determined under section
 10 165(h)(2)(A)(ii) of the Internal Revenue Code of
 11 1986 shall be equal to the sum of—

12 (A) such net disaster loss, and

13 (B) so much of the excess referred to in
 14 the matter preceding clause (i) of section
 15 165(h)(2)(A) of such Code (reduced by the
 16 amount in subparagraph (A) of this paragraph)
 17 as exceeds 10 percent of the adjusted gross in-
 18 come of the individual,

19 (2) in the case of qualified disaster-related per-
 20 sonal casualty losses, section 165(h)(1) of such Code
 21 shall be applied to by substituting “\$500” for “\$500
 22 (\$100 for taxable years beginning after December
 23 31, 2009)”,

1 (3) the standard deduction determined under
2 section 63(c) of such Code shall be increased by the
3 net disaster loss, and

4 (4) section 56(b)(1)(E) of such Code shall not
5 apply to so much of the standard deduction as is at-
6 tributable to the increase under paragraph (3) of
7 this paragraph.

8 (b) NET DISASTER LOSS.—For purposes of this sec-
9 tion, the term “net disaster loss” means the excess of
10 qualified disaster-related personal casualty losses over per-
11 sonal casualty gains (as defined in section 165(h)(3)(A)
12 of the Internal Revenue Code of 1986).

13 (c) QUALIFIED DISASTER-RELATED PERSONAL CAS-
14 UALTY LOSSES.—For purposes of this section, the term
15 “qualified disaster-related personal casualty losses” means
16 losses described in section 165(c)(3) of the Internal Rev-
17 enue Code of 1986 which arise in a qualified disaster area
18 on or after the first day of the incident period of the quali-
19 fied disaster to which such area relates, and which are
20 attributable to such qualified disaster.

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