

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2612

To amend the Internal Revenue Code of 1986 with respect to the treatment of certain charitable risk pools.

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IN THE HOUSE OF REPRESENTATIVES

JULY 1, 1993

Mr. STARK (for himself and Mr. FARR of California) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 with respect to the treatment of certain charitable risk pools.

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. TREATMENT OF CERTAIN CHARITABLE RISK**

4 **POOLS.**

5 (a) GENERAL RULE.—Section 501 of the Internal  
6 Revenue Code of 1986 (relating to exemption from tax on  
7 corporations, certain trusts, etc.) is amended by redesi-  
8 gnating subsection (n) as subsection (o) and by inserting  
9 after subsection (m) the following new subsection:

10 “(n) CHARITABLE RISK POOLS.—

1 “(1) IN GENERAL.—For purposes of this title—

2 “(A) a qualified charitable risk pool shall  
3 be treated as an organization organized and op-  
4 erated exclusively for charitable purposes, and

5 “(B) subsection (m) shall not apply to a  
6 qualified charitable risk pool.

7 “(2) QUALIFIED CHARITABLE RISK POOL.—For  
8 purposes of this subsection, the term ‘qualified char-  
9 itable risk pool’ means any organization—

10 “(A) which is organized and operated sole-  
11 ly to pool insurable risks of its members (other  
12 than risks related to medical malpractice) and  
13 to provide information to its members with re-  
14 spect to loss control and risk management,

15 “(B) no part of the net earnings of which  
16 inures to the benefit of any member or other  
17 person other than through providing insurance  
18 coverage (or information) described in subpara-  
19 graph (A),

20 “(C) which is comprised solely of members  
21 that are organizations described in subsection  
22 (c)(3) and exempt from tax under subsection  
23 (a), and

24 “(D) which meets the organizational re-  
25 quirements of paragraph (3).

1           “(3) ORGANIZATIONAL REQUIREMENTS.—An  
2 organization (hereinafter in this subsection referred  
3 to as the ‘risk pool’) meets the organizational re-  
4 quirements of this paragraph if—

5           “(A) such risk pool is organized as a non-  
6 profit organization under State law provisions  
7 authorizing risk pooling arrangements for chari-  
8 table organizations,

9           “(B) such risk pool is exempt from any in-  
10 come tax imposed by the State (or will be so ex-  
11 empt after such pool qualifies as an organiza-  
12 tion exempt from tax under this title),

13           “(C) such risk pool has obtained at least  
14 \$1,000,000 in startup capital from nonmember  
15 charitable organizations,

16           “(D) such risk pool is controlled by a  
17 board of directors elected by its members, and

18           “(E) the organizational documents of such  
19 risk pool require that—

20           “(i) each member of such pool con-  
21 tinue at all times to be an organization de-  
22 scribed in subsection (c)(3) and exempt  
23 from tax under subsection (a),

24           “(ii) any member which receives a  
25 final determination that it no longer quali-

1           fies as an organization described in sub-  
2           section (c)(3) shall immediately notify the  
3           pool of such determination and the effec-  
4           tive date of such determination, and

5                   “(iii) each policy of insurance issued  
6           by the risk pool shall provide that such  
7           policy will not cover the insured with re-  
8           spect to events occurring after the date  
9           such final determination was issued to the  
10          insured.

11          An organization shall not cease to qualify as a quali-  
12          fied charitable risk pool solely by reason of the fail-  
13          ure of any of its members to continue to be an orga-  
14          nization described in subsection (c)(3) if, within a  
15          reasonable period of time after such pool is notified  
16          as required under subparagraph (C)(ii), such pool  
17          takes such action as may be reasonably necessary to  
18          remove such member from such pool.

19               “(4) OTHER DEFINITIONS.—For purposes of  
20          this subsection—

21                   “(A) STARTUP CAPITAL.—The term ‘start-  
22          up capital’ means any capital contributed to,  
23          and any program-related investments (within  
24          the meaning of section 4944(c)) made in, the

1 risk pool before such pool commences oper-  
2 ations.

3 “(B) NONMEMBER CHARITABLE ORGANI-  
4 ZATION.—The term ‘nonmember charitable or-  
5 ganization’ means any organization which is de-  
6 scribed in subsection (c)(3) and exempt from  
7 tax under subsection (a) and which is not a  
8 member of the risk pool and does not benefit  
9 (directly or indirectly) from the insurance cov-  
10 erage provided by the pool to its members.”

11 (b) EFFECTIVE DATE.—The amendment made by  
12 subsection (a) shall apply to taxable years beginning after  
13 December 31, 1991.

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