

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3761

To amend the Internal Revenue Code of 1986 to permit individual retirement accounts to be used as security for certain business loans.

---

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 1994

Ms. BYRNE introduced the following bill; which was referred to the Committee on Ways and Means

---

## A BILL

To amend the Internal Revenue Code of 1986 to permit individual retirement accounts to be used as security for certain business loans.

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 “Small Business  
5       Empowerment Act”.

6       **SEC. 2. USE OF INDIVIDUAL RETIREMENT ACCOUNTS AS**  
7       **SECURITY FOR CERTAIN BUSINESS LOANS.**

8       (a) GENERAL RULE.—Paragraph (4) of section  
9       408(e) of the Internal Revenue Code of 1986 (relating to

1 effect of pledging account as security) is amended to read  
2 as follows:

3 “(4) EFFECT OF PLEDGING ACCOUNT AS SECUR-  
4 RITY.—

5 “(A) IN GENERAL.—If, during any taxable  
6 year of the individual for whose benefit an indi-  
7 vidual retirement account is established, that  
8 individual uses the account or any portion  
9 thereof as security for a loan, the portion so  
10 used is treated as distributed to that individual.

11 “(B) EXCEPTION FOR CERTAIN BUSINESS  
12 LOANS.—

13 “(i) IN GENERAL.—Subparagraph (A)  
14 shall not apply to the use of an individual  
15 retirement account (or any portion thereof)  
16 as security for a qualified business loan  
17 and nothing in subsection (a)(4) shall be  
18 construed to prohibit such use.

19 “(ii) QUALIFIED BUSINESS LOAN.—  
20 For purposes of clause (i), the term ‘quali-  
21 fied business loan’ means any indebtedness  
22 incurred by the individual in connection  
23 with—

24 “(I) the commencement of a new  
25 trade or business by the individual or

1 the expansion of an existing trade or  
2 business, or

3 “(II) the acquisition of property  
4 to be used in the conduct of a trade  
5 or business by the individual.

6 “(iii) WAIVER OF PENALTY IN CASE  
7 OF DEFAULT.—If—

8 “(I) an individual retirement ac-  
9 count (or portion thereof) was used as  
10 security for a qualified business loan,  
11 and

12 “(II) as a result of a default on  
13 such loan there is a distribution from  
14 such account required under the secu-  
15 rity interest,

16 no additional tax shall be imposed under  
17 section 72(t) on such distribution.”

18 (b) EFFECTIVE DATE.—The amendment made by  
19 subsection (a) shall take effect on the date of the enact-  
20 ment of this Act.

○