

107TH CONGRESS
2D SESSION

H. R. 4099

To amend the Internal Revenue Code of 1986 to clarify the status of employee leasing organizations and to promote and protect the interests of employee leasing organizations, their customers, and workers.

IN THE HOUSE OF REPRESENTATIVES

APRIL 9, 2002

Mr. CRANE (for himself, Mr. JEFFERSON, and Mr. LEWIS of Kentucky) 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 clarify the status of employee leasing organizations and to promote and protect the interests of employee leasing organizations, their customers, and workers.

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 “Employee Leasing Or-
5 ganization Act of 2002”.

6 **SEC. 2. NO INFERENCE.**

7 Nothing contained in this Act or the amendments
8 made by this Act shall be construed to create any infer-

1 ence with respect to the determination of who is an em-
 2 ployee or employer for purposes of any other provision of
 3 law except those provisions specified in this Act or the
 4 amendments made by this Act.

5 **SEC. 3. INCOME TAX WITHHOLDING.**

6 Paragraph (1) of section 3401(d) of the Internal Rev-
 7 enue Code of 1986 is amended by inserting “including a
 8 person that contractually assumes control of the payment
 9 of wages,” after “wages,”.

10 **SEC. 4. FUTA TAX.**

11 Paragraph (1) of section 3306(a) of the Internal Rev-
 12 enue Code of 1986 is amended by striking “or” at the
 13 end of subparagraph (A), by striking the period at the
 14 end of subparagraph (B) and inserting “, or”, and by add-
 15 ing at the end the following new subparagraph:

16 “(C) contractually assumes control of pay-
 17 ment of wages for purposes of section
 18 3401(d)(1).”.

19 **SEC. 5. FICA TAX.**

20 Subsection (d) of section 3121 of the Internal Rev-
 21 enue Code of 1986 is amended by striking “or” at the
 22 end of paragraph (3), by striking the period at the end
 23 of paragraph (4) and inserting “; or”, and by adding at
 24 the end the following new paragraph:

1 “(5) any individual who is a leased employee of
2 an employee leasing organization.”.

3 **SEC. 6. EMPLOYEE LEASING ORGANIZATION’S ABILITY TO**
4 **SPONSOR WELFARE AND PENSION BENEFIT**
5 **PLANS.**

6 Paragraph (20) of section 7701(a) of the Internal
7 Revenue Code of 1986 is amended—

8 (1) by striking the heading and inserting the
9 following:

10 “(20) EMPLOYEE.—

11 “(A) FULL-TIME LIFE INSURANCE SALES-
12 MAN.—”, and

13 (2) by adding at the end the following new sub-
14 paragraph:

15 “(B) INDIVIDUAL COVERED BY AN EM-
16 PLOYEE LEASING AGREEMENT.—For the pur-
17 pose of applying the provisions of section 79
18 with respect to group-term insurance purchased
19 for employees, for the purpose of applying the
20 provisions of sections 104, 105, and 106 with
21 respect to accident and health insurance or ac-
22 cident and health plans, for the purpose of ap-
23 plying the provisions of this title with respect to
24 contributions to or under a trust which is a
25 part of a plan described in section 401(a)

1 (other than a defined benefit plan), or to or
2 under a plan described in section 403(a) (other
3 than a defined benefit plan), including for this
4 purpose elective contributions under section
5 401(k) and employee contributions and match-
6 ing contributions under section 410(m), with
7 respect to a tax-exempt status of a trust form-
8 ing a part of such plan, and with respect to dis-
9 tributions under such a plan, or by a trust
10 forming part of such a plan, for the purpose of
11 applying the provisions of section 125 with re-
12 spect to cafeteria plans, for the purpose of ap-
13 plying section 127 with respect to educational
14 assistance programs, for the purpose of apply-
15 ing section 129 with respect to dependent care
16 assistance programs, for the purpose of apply-
17 ing the provisions of section 414(n), and for the
18 purpose of applying the provisions listed in sec-
19 tion 414(n)(3), for the purpose of applying the
20 provisions of section 106(b) with respect to con-
21 tributions to medical savings accounts, with re-
22 spect to such other benefits, plans, or programs
23 as are described in section 414(n)(3), an em-
24 ployee leasing organization may sponsor such
25 plans, benefits, or programs on behalf of and

1 for the benefit of any ‘leased employee’ per-
2 forming services for a ‘recipient’.”

3 **SEC. 7. EFFECTIVE DATE.**

4 The amendments made by this Act shall apply to re-
5 muneration paid after the date of the enactment of this
6 Act.

