

110TH CONGRESS
2D SESSION

H. R. 7278

To suspend the beginning date for required distributions from defined contribution plans based on attainment of age 70½, to waive the 10 percent penalty on withdrawals from qualified retirement plans during 2008 and 2009 for financial hardship, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 19, 2008

Mr. RUPPERSBERGER introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To suspend the beginning date for required distributions from defined contribution plans based on attainment of age 70½, to waive the 10 percent penalty on withdrawals from qualified retirement plans during 2008 and 2009 for financial hardship, and for other purposes.

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 “Retirement Fairness
5 and Emergency Relief Act of 2008”.

1 **SEC. 2. SUSPENSION OF REQUIRED BEGINNING DATE FOR**
2 **DISTRIBUTIONS FROM DEFINED CONTRIBU-**
3 **TION PLANS.**

4 (a) **IN GENERAL.**—In the case of a defined contribu-
5 tion plan—

6 (1) section 401(a)(9) of the Internal Revenue
7 Code of 1986 shall not apply during the suspension
8 period,

9 (2) in lieu of the calendar year specified in sub-
10 paragraph (C)(i) of section 401(a)(9) of such Code,
11 the calendar year specified in such subparagraph
12 shall be the later of—

13 (A) the calendar year described in such
14 subparagraph (C)(i), or

15 (B) calendar year 2010, and

16 (3) the suspension period shall not be taken
17 into account for purposes of applying any time limi-
18 tation in such section 401(a)(9).

19 (b) **SUSPENSION PERIOD.**—For purposes of this sec-
20 tion, the term “suspension period” means the period be-
21 ginning on January 1, 2008, and ending on December 31,
22 2009.

23 (c) **APPLICATION TO CERTAIN OTHER PLANS.**—The
24 following sections shall be applied for the suspension pe-
25 riod under rules similar to the rules of subsection (a) of
26 this section—

1 (1) in the case of a defined contribution plan,
2 subsections (a) and (b) of section 403, and sections
3 408 and 408A, of such Code, and

4 (2) in the case of an eligible deferred compensa-
5 tion plan described in section 457(b) of such Code
6 which is maintained by an eligible employer de-
7 scribed in section 457(e)(1)(A) of such Code, section
8 457 of such Code.

9 (d) APPLICATION TO CERTAIN PERIODIC PAY-
10 MENTS.—For purposes of this section, in the case of a
11 defined contribution plan, the failure to make a payment
12 from a qualified retirement plan during the suspension pe-
13 riod in an amount less than would be required under the
14 applicable method shall not be treated as a modification
15 for purposes of section 72(t)(2)(A)(iv) of such Code.

16 (e) PROVISIONS RELATING TO PLAN AMEND-
17 MENTS.—

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

23 (2) AMENDMENTS TO WHICH SECTION AP-
24 PLIES.—

1 (A) IN GENERAL.—This section shall apply
2 to any amendment to any plan or annuity con-
3 tract which is made—

4 (i) pursuant to this section or pursu-
5 ant to any regulation issued by the Sec-
6 retary of the Treasury to carry out this
7 section, and

8 (ii) on or before the last day of the
9 first plan year beginning on or after Janu-
10 ary 1, 2009.

11 (B) CONDITIONS.—This section shall not
12 apply to any amendment unless—

13 (i) during the period—

14 (I) beginning on the first day of
15 the suspension period, and

16 (II) ending on the date described
17 in subparagraph (A)(ii) (or, if earlier,
18 the date the plan or contract amend-
19 ment is adopted), the plan or contract
20 is operated as if such plan or contract
21 amendment were in effect, and

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

24 (f) EFFECTIVE DATE.—

1 (1) IN GENERAL.—This section shall take effect
2 on the date of the enactment of this Act.

3 (2) RECONTRIBUTION OF DISTRIBUTIONS BE-
4 FORE DATE OF ENACTMENT.—

5 (A) IN GENERAL.—Any individual who re-
6 ceives a payment or distribution during the pe-
7 riod beginning on January 1, 2008, and ending
8 on the date of the enactment of this Act from
9 a plan to which subsection (a) or (c) of this sec-
10 tion applies may, before the end of the suspen-
11 sion period, make one or more contributions in
12 an aggregate amount not to exceed the amount
13 of such payments or distributions to an eligible
14 retirement plan of which such individual is a
15 beneficiary and to which a rollover contribution
16 of such distribution could be made under sec-
17 tion 402(e), 403(a)(4), 403(b)(8), 408(d)(3), or
18 457(e)(16) of such Code, as the case may be.

19 (B) TREATMENT OF REPAYMENTS OF DIS-
20 TRIBUTIONS FROM ELIGIBLE RETIREMENT
21 PLANS OTHER THAN IRAS.—For purposes of
22 the Internal Revenue Code of 1986, if a con-
23 tribution is made pursuant to subparagraph (A)
24 to an eligible retirement plan other than an in-
25 dividual retirement plan, then the taxpayer

1 shall, to the extent of the amount of the con-
2 tribution, be treated as having received such
3 payments or distributions in an eligible rollover
4 distribution (as defined in section 402(c)(4) of
5 such Code) and as having transferred the
6 amount to the eligible retirement plan in a di-
7 rect trustee to trustee transfer within 60 days
8 of the distribution.

9 (C) TREATMENT OF REPAYMENTS FOR
10 DISTRIBUTIONS FROM IRAS.—For purposes of
11 the Internal Revenue Code of 1986, if a con-
12 tribution is made pursuant to subparagraph (A)
13 to an individual retirement plan (as defined by
14 section 7701(a)(37) of such Code), then, to the
15 extent of the amount of the contribution, such
16 payments or distributions shall be treated as a
17 distribution described in section 408(d)(3) of
18 such Code and as having been transferred to
19 the individual retirement plan in a direct trust-
20 ee to trustee transfer within 60 days of the dis-
21 tribution.

1 **SEC. 3. WAIVER OF 10 PERCENT PENALTY ON WITH-**
2 **DRAWALS FROM QUALIFIED RETIREMENT**
3 **PLANS DURING 2008 AND 2009 FOR FINANCIAL**
4 **HARDSHIP.**

5 (a) IN GENERAL.—Paragraph (1) of section 72(t) of
6 the Internal Revenue Code of 1986 (relating to imposition
7 of additional tax) shall not apply to qualified financial
8 hardship distributions from a qualified retirement plan (as
9 defined in section 4974(c) of such Code), to an individual.
10 Distributions shall not be taken into account under the
11 preceding sentence if such distributions are described in
12 subparagraph (A), (C), (D), (E), (F), or (G) of section
13 72(t)(2) of such Code or to the extent section 72(t)(1)
14 of such Code does not apply to such distributions by rea-
15 son of section 72(t)(2)(B).

16 (b) QUALIFIED FORECLOSURE DISTRIBUTIONS.—
17 For purposes of subsection (a)—

18 (1) IN GENERAL.—The term “qualified finan-
19 cial hardship distribution” means any payment or
20 distribution received after December 31, 2007, and
21 before January 1, 2010, by an individual on account
22 of financial hardship (as determined by the Sec-
23 retary of the Treasury).

24 (2) LIMITATION.—The amount of payments or
25 distributions received by an individual which may be

1 treated as qualified financial hardship distributions
2 for any taxable year shall not exceed \$15,000.

3 (3) AMOUNT DISTRIBUTED MAY BE REPAID.—

4 (A) IN GENERAL.—Any individual who re-
5 ceives a qualified financial hardship distribution
6 may, at any time during the 5-year period be-
7 ginning on the day after the date on which such
8 distribution was received, make one or more
9 contributions in an aggregate amount not to ex-
10 ceed the amount of such distribution to an eligi-
11 ble retirement plan of which such individual is
12 a beneficiary and to which a rollover contribu-
13 tion of such distribution could be made under
14 section 402(c), 403(a)(4), 403(b)(8), 408(d)(3),
15 or 457(e)(16), as the case may be, of the Inter-
16 nal Revenue Code of 1986.

17 (B) TREATMENT OF REPAYMENTS OF DIS-
18 TRIBUTIONS FROM ELIGIBLE RETIREMENT
19 PLANS OTHER THAN IRAS.—For purposes of
20 the Internal Revenue Code of 1986, if a con-
21 tribution is made pursuant to subparagraph (A)
22 with respect to a qualified financial hardship
23 distribution from an eligible retirement plan
24 other than an individual retirement plan, then
25 the taxpayer shall, to the extent of the amount

1 of the contribution, be treated as having re-
2 ceived the qualified financial hardship distribu-
3 tion in an eligible rollover distribution (as de-
4 fined in section 402(c)(4) of such Code) and as
5 having transferred the amount to the eligible
6 retirement plan in a direct trustee to trustee
7 transfer within 60 days of the distribution.

8 (C) TREATMENT OF REPAYMENTS FOR
9 DISTRIBUTIONS FROM IRAS.—For purposes of
10 the Internal Revenue Code of 1986, if a con-
11 tribution is made pursuant to subparagraph (A)
12 with respect to a qualified financial hardship
13 distribution from an individual retirement plan
14 (as defined by section 7701(a)(37) of such
15 Code), then, to the extent of the amount of the
16 contribution, the qualified financial hardship
17 distribution shall be treated as a distribution
18 described in section 408(d)(3) of such Code and
19 as having been transferred to the eligible retire-
20 ment plan in a direct trustee to trustee transfer
21 within 60 days of the distribution.

22 (4) SPECIAL RULES.—

23 (A) EXEMPTION OF DISTRIBUTIONS FROM
24 TRUSTEE TO TRUSTEE TRANSFER AND WITH-
25 HOLDING RULES.—For purposes of sections

1 401(a)(31), 402(f), and 3405 of the Internal
2 Revenue Code of 1986, qualified financial hard-
3 ship distributions shall not be treated as eligible
4 rollover distributions.

5 (B) QUALIFIED FINANCIAL HARDSHIP DIS-
6 TRIBUTIONS TREATED AS MEETING PLAN DIS-
7 TRIBUTION REQUIREMENTS.—For purposes this
8 title, a qualified financial hardship distribution
9 shall be treated as meeting the requirements of
10 sections 401(k)(2)(B)(i), 403(b)(7)(A)(ii),
11 403(b)(11), and 457(d)(1)(A) of such Code.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect on the date of the enactment
14 of this Act.

○