

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

# H. R. 5162

To amend the Internal Revenue Code of 1986 to improve long-term care access for elderly Americans.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 4, 1994

Mr. DREIER introduced the following bill; which was referred jointly to the Committees on Ways and Means, Banking, Finance and Urban Affairs, and Government Operations

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## A BILL

To amend the Internal Revenue Code of 1986 to improve long-term care access for elderly Americans.

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 “Long-Term Care Act  
5 of 1994”.

1 **SEC. 2. NONRECOGNITION OF GAIN ON SALE OF PRINCIPAL**  
2 **RESIDENCE TO EXTENT PROCEEDS USED**  
3 **FOR ENTRANCE INTO CONTINUING CARE RE-**  
4 **TIREMENT COMMUNITY.**

5 (a) IN GENERAL.—Section 1034 of the Internal Rev-  
6 enue Code of 1986 (relating to rollover of gain of sale of  
7 principal residence) is amended by redesignating sub-  
8 section (l) as subsection (m) and by inserting after sub-  
9 section (k) the following new subsection:

10 “(l) NONRECOGNITION OF GAIN IF NEW RESIDENCE  
11 IS QUALIFIED CONTINUING CARE RETIREMENT COMMU-  
12 NITY.—

13 “(1) IN GENERAL.—Gross income shall not in-  
14 clude gain from the sale of the principal residence  
15 of the taxpayer if—

16 “(A) the taxpayer attained age 55 before  
17 the date of such sale, and

18 “(B) within the 2-year period beginning on  
19 such date, the taxpayer has as his principal res-  
20 idence a qualified continuing care retirement  
21 community.

22 “(2) LIMITATION.—The amount excluded from  
23 gross income under paragraph (1) shall not exceed  
24 the amount paid by the taxpayer during such 2-year  
25 period to such retirement community in order for

1 the taxpayer or his spouse to reside in such commu-  
2 nity.

3 “(3) RECAPTURE IN CERTAIN CASES.—

4 “(A) IN GENERAL.—If the taxpayer ceases  
5 to have as his principal residence (other than by  
6 reason of death) a qualified continuing care re-  
7 tirement community, the amount excluded from  
8 gross income under paragraph (1) shall be in-  
9 cluded in gross income for the taxable year in  
10 which such cessation occurs.

11 “(B) EXCEPTIONS.—The amount includ-  
12 ible in gross income under subparagraph (A)  
13 shall be reduced by the amount paid by the tax-  
14 payer (during the 6-month period after the date  
15 of cessation)—

16 “(i) to a qualified continuing care re-  
17 tirement community in order for the tax-  
18 payer or his spouse to reside in such com-  
19 munity (but only if the community be-  
20 comes the principal residence of the tax-  
21 payer or his spouse during such period), or

22 “(ii) for qualified long-term care ex-  
23 penses (as defined in section 408(d)(8)) of  
24 the taxpayer or his spouse.

1           “(4) SPECIAL RULES FOR MARRIED INDIVID-  
2           UALS.—In the case of a husband and wife who file  
3           a joint return for the taxable year which includes the  
4           date of the sale of the old residence—

5                   “(A) the age requirement of paragraph  
6                   (1)(A) shall be treated as met if either spouse  
7                   meets such requirement, and

8                   “(B) paragraph (3) shall be applied by  
9                   taking into account one-half of the gain with re-  
10                  spect to each spouse.

11           “(5) QUALIFIED CONTINUING CARE RETIRE-  
12           MENT COMMUNITY.—For purposes of this sub-  
13           section, the term ‘qualified continuing care retire-  
14           ment community’ has the meaning given such term  
15           by section 7872(g).”

16           (b) EFFECTIVE DATE.—The amendments made by  
17           this section shall apply to old residences sold after the date  
18           of the enactment of this Act.

19   **SEC. 3. EXCLUSION FROM GROSS INCOME FOR AMOUNTS**  
20                   **WITHDRAWN FROM INDIVIDUAL RETIRE-**  
21                   **MENT PLANS FOR LONG-TERM CARE.**

22           (a) IN GENERAL.—Subsection (d) of section 408 of  
23           the Internal Revenue Code of 1986 (relating to tax treat-  
24           ment of distributions from individual retirement plans) is

1 amended by adding at the end thereof the following new  
2 paragraph:

3 “(8) DISTRIBUTIONS FOR QUALIFIED LONG-  
4 TERM CARE EXPENSES.—

5 “(A) IN GENERAL.—No amount (which  
6 but for this paragraph would be includible in  
7 the gross income of the payee or distributee  
8 under paragraph (1)) shall be included in gross  
9 income during the taxable year if—

10 “(i) the payee or distributee has at-  
11 tained age 59½ on or before the date of  
12 the distribution, and

13 “(ii) the distribution is used during  
14 such year to pay qualified long-term care  
15 expenses for the benefit of the payee or  
16 distributee or the spouse of the payee or  
17 distributee if such spouse has attained age  
18 59½ on or before the date of the distribu-  
19 tion.

20 “(B) QUALIFIED LONG-TERM CARE EX-  
21 PENSES.—For purposes of subparagraph (A),  
22 the term ‘qualified long-term care expenses’  
23 means any amount paid—

24 “(i) as premiums for any qualified  
25 long-term care insurance policy, or

1           “(ii) for services of a type for which  
2           coverage may be provided under a qualified  
3           long-term care insurance policy.

4           “(C) QUALIFIED LONG-TERM CARE INSUR-  
5           ANCE POLICY.—For purposes of subparagraph  
6           (B)—

7           “(i) IN GENERAL.—Subject to clause  
8           (ii), the term ‘qualified long-term care in-  
9           surance policy’ means an insurance policy  
10          or rider, issued by a qualified issuer, and  
11          certified by the Secretary of Health and  
12          Human Services (in accordance with proce-  
13          dures similar to the procedures prescribed  
14          in section 1882 of the Social Security Act  
15          (42 U.S.C. 1385ss) used in the certifi-  
16          cation of medicare supplemental policies  
17          (as defined in subsection (g)(1) of such  
18          section)) to be advertised, marketed, of-  
19          fered, or designed to provide coverage—

20                 “(I) for not less than 12 consecu-  
21                 tive months for each covered person,

22                 “(II) on an expense incurred, in-  
23                 demnity, or prepaid basis,

24                 “(III) for 1 or more medically  
25                 necessary, diagnostic services, preven-

1           tive services, therapeutic services, re-  
2           habilitation services, maintenance  
3           services, personal care services, or  
4           continuing care services, and

5                   “(IV) provided in a setting other  
6                   than an acute care unit of a hospital.

7                   “(ii) COVERAGE SPECIFICALLY EX-  
8           CLUDED.—Such term does not include any  
9           insurance policy or rider which is offered  
10          primarily to provide any combination of  
11          the following kinds of coverage:

12                   “(I) Basic Medicare supplement  
13                   coverage.

14                   “(II) Basic hospital expense cov-  
15                   erage.

16                   “(III) Basic medical-surgical ex-  
17                   pense coverage.

18                   “(IV) Hospital confinement in-  
19                   demnity coverage.

20                   “(V) Major medical expense cov-  
21                   erage.

22                   “(VI) Disability income protec-  
23                   tion coverage.

24                   “(VII) Accident only coverage.

1                   “(VIII) Specified disease cov-  
2                   erage.

3                   “(IX) Specified accident cov-  
4                   erage.

5                   “(X) Limited benefit health cov-  
6                   erage.

7                   “(iii) QUALIFIED ISSUER.—For pur-  
8                   poses of clause (i), the term ‘qualified is-  
9                   suer’ means any of the following:

10                   “(I) Private insurance company.

11                   “(II) Fraternal benefit society.

12                   “(III) Nonprofit health corpora-  
13                   tion.

14                   “(IV) Nonprofit hospital corpora-  
15                   tion.

16                   “(V) Nonprofit medical service  
17                   corporation.

18                   “(VI) Prepaid health plan.”

19           (b) EFFECTIVE DATE.—The amendment made by  
20 subsection (a) shall apply to distributions after the date  
21 of the enactment of this Act in taxable years ending after  
22 such date.

1 **SEC. 4. INCREASE IN EXCLUSION OF GAIN ON SALE OF**  
2 **PRINCIPAL RESIDENCE BY INDIVIDUALS**  
3 **WHO HAVE ATTAINED AGE 55 FOR AMOUNTS**  
4 **SET ASIDE FOR LONG-TERM CARE.**

5 (a) IN GENERAL.—Paragraph (1) of section 121(b)  
6 of the Internal Revenue Code of 1986 (relating to one-  
7 time exclusion of gain from sale of principal residence by  
8 individual who has attained age 55) is amended to read  
9 as follows:

10 “(1) DOLLAR LIMITATION.—

11 “(A) IN GENERAL.—The amount of the  
12 gain excluded from gross income under sub-  
13 section (a) shall not exceed \$125,000 (\$62,500  
14 in the case of a separate return by a married  
15 individual).

16 “(B) EXCEPTION FOR AMOUNTS SET  
17 ASIDE FOR LONG-TERM CARE.—

18 “(i) IN GENERAL.—The dollar amount  
19 applicable under subparagraph (A) shall be  
20 increased by the amount set aside by the  
21 taxpayer (during the taxable year in which  
22 the sale or exchange occurs) in a separate  
23 account the principal and earnings on  
24 which are to be used by the taxpayer only  
25 to pay qualified long-term care expenses  
26 (as defined in section 408(d)(8)) for the

1 benefit of the taxpayer or the spouse of the  
2 taxpayer.

3 “(ii) TAX ON AMOUNTS NOT USED  
4 FOR LONG-TERM CARE EXPENSES.—If any  
5 amount paid or distributed from an ac-  
6 count described in clause (i) is used other  
7 than to pay qualified long-term care ex-  
8 penses (as so defined) for the benefit of  
9 the taxpayer or the spouse of the tax-  
10 payer—

11 “(I) such amount shall be includ-  
12 ible in gross income for the taxable  
13 year in which paid or distributed, and

14 “(II) the taxpayer’s tax imposed  
15 by this chapter for such taxable year  
16 shall be increased by an amount equal  
17 to 10 percent of such amount.”

18 (b) EFFECTIVE DATE.—The amendment made by  
19 subsection (a) shall apply to sales and exchanges after the  
20 date of the enactment of this Act in taxable years ending  
21 after such date.

22 **SEC. 5. FEDERAL PREEMPTION RELATING TO REVERSE**  
23 **MORTGAGE LOANS.**

24 (a) LAWS RELATING GENERALLY TO MORTGAGES.—  
25 No State or political subdivision of a State may establish,

1 continue in effect, or enforce any mortgage loan law, as  
2 such law applies to any reverse mortgage loan, unless the  
3 mortgage loan law expressly applies to reverse mortgage  
4 loans (or to certain types of such loans) or on its face  
5 evidences the existence of reverse mortgage loans (or cer-  
6 tain types of such loans).

7 (b) SAVINGS PROVISION.—Subsection (a) may not be  
8 construed—

9 (1) to annul, alter, or affect any mortgage loan  
10 law as such law applies to any mortgage loan that  
11 is not a reverse mortgage loan; or

12 (2) to limit the authority of any State or any  
13 political subdivision of a State to establish, continue  
14 in effect, or enforce any provision of law expressly  
15 applicable to reverse mortgage loans (or certain  
16 types of such loans).

17 (c) DEFINITIONS.—For purposes of this section, the  
18 following definitions shall apply:

19 (1) MORTGAGE LOAN.—The term “mortgage  
20 loan” means any loan for the unpaid purchase price  
21 of real property or advances on real property that,  
22 pursuant to the laws of the applicable State or polit-  
23 ical subdivision of a State, is secured by any lien on  
24 or interest in the property.

1           (2) MORTGAGE LOAN LAW.—The term “mort-  
2           gage loan law” means any law that applies to any  
3           mortgage loan or regulates, limits, authorizes, or  
4           otherwise affects any mortgage loan.

5           (3) REVERSE MORTGAGE.—The term “reverse  
6           mortgage” means any mortgage loan—

7                   (A) that is secured by a dwelling that is  
8                   the principal residence of the borrower and is  
9                   designed principally as a 1-family residence;

10                   (B) under which payments are made to the  
11                   borrower based on the equity of the borrower in  
12                   the residence;

13                   (C) under which no repayment of principal  
14                   and interest is required until the entire indebt-  
15                   edness under the loan becomes due and pay-  
16                   able; and

17                   (D) that provides that the borrower shall  
18                   not be liable for any remaining indebtedness re-  
19                   sulting from the failure of the security for the  
20                   loan to cover the entire indebtedness under the  
21                   loan.

1 **SEC. 6. PROCEEDS FROM REVERSE MORTGAGE LOANS NOT**  
2 **TREATED AS INCOME OR RECEIPTS FOR**  
3 **MEANS-TESTED PROGRAMS.**

4 For purposes of any Federal program and any State  
5 or local program financed in whole or in part with Federal  
6 funds—

7 (1) any payment under a reverse mortgage (as  
8 defined in section 5) made to an individual shall not  
9 be taken into account as income or receipts for pur-  
10 poses of determining the eligibility, for the month in  
11 which such payment is made or any month there-  
12 after, of such individual or any other individual for  
13 benefits or assistance, or the amount or extent of  
14 benefits or assistance, under such a program, and

15 (2) any unpaid amounts under such a mortgage  
16 shall be treated as the borrower's equity in the resi-  
17 dence and shall not be treated as loan proceeds.

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