

104TH CONGRESS
1ST SESSION

H. R. 2015

To amend the Internal Revenue Code of 1986 to provide tax incentives for the economic recovery of areas affected by the loss of employment in the financial institution and real estate sectors.

IN THE HOUSE OF REPRESENTATIVES

JULY 11, 1995

Mrs. KENNELLY 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 provide tax incentives for the economic recovery of areas affected by the loss of employment in the financial institution and real estate sectors.

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 “Financial Institution
5 and Real Estate (FIRE) Relief Act of 1995”.

1 **SEC. 2. DESIGNATION AND TREATMENT OF ECONOMIC RE-**
 2 **COVERY AREAS.**

3 (a) IN GENERAL.—Chapter 1 of the Internal Reve-
 4 nue Code of 1986 is amended by adding at the end the
 5 following new subchapter:

6 **“Subchapter W—Designation and**
 7 **Treatment of Economic Recov-**
 8 **ery Areas**

“Part I. Designation.

“Part II. Incentives.

9 **“PART I—DESIGNATION**

“Sec. 1399A. Designation procedure.

“Sec. 1399B. Eligibility criteria; definitions and special rules.

10 **“SEC. 1399A. DESIGNATION PROCEDURE.**

11 “(a) IN GENERAL.—From among the areas nomi-
 12 nated for designation under this section, the Secretary
 13 may designate 3 nominated areas as economic recovery
 14 areas.

15 “(b) PERIOD DESIGNATIONS MAY BE MADE.—A des-
 16 ignation may be made under this section only during the
 17 1-year period beginning on the date of the enactment of
 18 this subchapter.

19 “(c) PERIOD FOR WHICH DESIGNATION IS IN EF-
 20 FECT.—

21 “(1) IN GENERAL.—Any designation under this
 22 section shall remain in effect during the period be-

1 “(2) EMPLOYMENT LOSSES IN FINANCIAL IN-
2 STITUTION AND REAL ESTATE SECTORS.—With re-
3 spect to the nominated area—

4 “(A) at least 12 percent of the wages at-
5 tributable to private, nonagricultural employ-
6 ment in the area during 1989, and subject to
7 tax under section 3301 during such year, were
8 in the financial institution and real estate sec-
9 tors, and

10 “(B) the employment in such area in such
11 sectors for the calendar year preceding the cal-
12 endar year in which such area is nominated for
13 designation is 10 percent (or, if lesser, 5,000
14 full-time equivalent jobs) less than such employ-
15 ment during 1989.

16 The requirement of subparagraph (B) shall not be
17 met if substantially all of such decline in employ-
18 ment is attributable to 1 employer. Data for the
19 labor market area which includes the nominated
20 area may be used for purposes of this paragraph if
21 data is not separately available for the nominated
22 area.

23 “(b) DEFINITIONS.—For purposes of this sub-
24 chapter—

1 “(b) QUALIFIED AREA WAGES.—

2 “(1) IN GENERAL.—For purposes of this sec-
3 tion, the term ‘qualified area wages’ means any
4 wages paid or incurred by an employer for services
5 performed by an employee while such employee is a
6 qualified area employee.

7 “(2) ONLY FIRST \$15,000 OF WAGES PER YEAR
8 TAKEN INTO ACCOUNT.—With respect to each quali-
9 fied area employee, the amount of qualified area
10 wages which may be taken into account for a cal-
11 endar year shall not exceed \$15,000.

12 “(3) COORDINATION WITH TARGETED JOBS
13 CREDIT AND EMPOWERMENT ZONE EMPLOYMENT
14 CREDIT.—

15 “(A) IN GENERAL.—The term ‘qualified
16 area wages’ shall not include wages taken into
17 account in determining the credit under section
18 51 or 1396.

19 “(B) COORDINATION WITH PARAGRAPH
20 (2).—The \$15,000 amount in paragraph (2)
21 shall be reduced for any calendar year by the
22 amount of wages paid or incurred during such
23 year which are taken into account in determin-
24 ing the credit under section 51 or 1396.

1 “(c) QUALIFIED AREA EMPLOYEE.—For purposes of
2 this section—

3 “(1) IN GENERAL.—Except as otherwise pro-
4 vided in this subsection, the term ‘qualified area em-
5 ployee’ means, with respect to any period, any em-
6 ployee of an employer if—

7 “(A) substantially all of the services per-
8 formed during such period by such employee for
9 such employer are performed within an eco-
10 nomic recovery area in a trade or business of
11 the employer, and

12 “(B) the prior employment of such em-
13 ployee was by an employer in such area from
14 which—

15 “(i) such employee was involuntarily
16 separated from service (other than in a
17 separation determined under the applicable
18 State unemployment compensation law to
19 be due to the misconduct of such em-
20 ployee), or

21 “(ii) such employee retired.

22 “(2) CERTAIN INDIVIDUALS NOT ELIGIBLE.—
23 Rules similar to the rules of paragraphs (2) and (3)
24 of section 1396(d) shall apply for purposes of para-
25 graph (1).

1 “(d) OTHER DEFINITIONS AND SPECIAL RULES.—

2 For purposes of this section—

3 “(1) WAGES.—The term ‘wages’ has the same
4 meaning as when used in section 51.

5 “(2) CONTROLLED GROUPS.—All employers
6 treated as a single employer under subsection (a) or
7 (b) of section 52 shall be treated as a single em-
8 ployer for purposes of this section, and the credit (if
9 any) determined under this section with respect to
10 each such employer shall be its proportionate share
11 of the wages giving rise to such credit.

12 “(3) CERTAIN OTHER RULES MADE APPLICA-
13 BLE.—For purposes of this section, rules similar to
14 the rules of section 51(k) and subsections (c), (d),
15 and (e) of section 52 shall apply.

16 **“SEC. 1399E. REDUCTION IN CAPITAL GAINS TAX ON EQ-
17 UITY INVESTMENTS IN AREA BUSINESSES.**

18 “(a) TAXPAYERS OTHER THAN CORPORATIONS.—

**“For 10 percent maximum rate of tax on qualified
area investments, see section 1(h).**

19 “(b) CORPORATIONS.—

**“For 17 percent maximum rate of tax on qualified
area investments, see section 1201.**

20 “(c) QUALIFIED AREA INVESTMENTS.—For purposes
21 of sections 1 and 1201—

22 “(1) IN GENERAL.—The term ‘qualified area
23 investment’ means—

1 “(A) any qualified area stock,

2 “(B) any qualified area business property,

3 and

4 “(C) any qualified area partnership inter-
5 est,

6 held for more than 5 years as of the date of the sale
7 or exchange to which section 1 or 1201 applies.

8 “(2) QUALIFIED AREA STOCK.—

9 “(A) IN GENERAL.—Except as provided in
10 subparagraph (B), the term ‘qualified area
11 stock’ means any stock in a domestic corpora-
12 tion if—

13 “(i) such stock is acquired by the tax-
14 payer on original issue from the corpora-
15 tion solely in exchange for cash,

16 “(ii) as of the time such stock was is-
17 sued, such corporation was a qualified area
18 business (or, in the case of a new corpora-
19 tion, such corporation was being organized
20 for purposes of being a qualified area busi-
21 ness), and

22 “(iii) during substantially all of the
23 taxpayer’s holding period for such stock,
24 such corporation qualified as a qualified
25 area business.

1 “(B) REDEMPTIONS.—The term ‘qualified
2 area stock’ shall not include any stock acquired
3 from a corporation which made a substantial
4 stock redemption or distribution (without a
5 bona fide business purpose therefor) in an at-
6 tempt to avoid the purposes of this section.

7 “(3) QUALIFIED AREA BUSINESS PROPERTY.—

8 “(A) IN GENERAL.—The term ‘qualified
9 area business property’ means tangible property
10 if—

11 “(i) such property was acquired by
12 the taxpayer by purchase (as defined in
13 section 179(d)(2)) after the date on which
14 the designation of the economic recovery
15 area took effect,

16 “(ii) the original use of such property
17 in such an area commences with the tax-
18 payer, and

19 “(iii) during substantially all of the
20 taxpayer’s holding period for such prop-
21 erty, substantially all of the use of such
22 property was in an economic recovery area
23 and in a qualified area business of the tax-
24 payer.

1 “(B) SPECIAL RULE FOR SUBSTANTIAL IM-
2 PROVEMENTS.—The requirements of clauses (i)
3 and (ii) of subparagraph (A) shall be treated as
4 satisfied with respect to—

5 “(i) property which is substantially
6 improved by the taxpayer, and

7 “(ii) any land on which such property
8 is located.

9 For purposes of the preceding sentence, prop-
10 erty shall be treated as substantially improved
11 by the taxpayer if, during any 24-month period
12 beginning after the date on which the designa-
13 tion of the economic recovery area took effect,
14 additions to basis with respect to such property
15 in the hands of the taxpayer exceed the greater
16 of (i) an amount equal to the adjusted basis at
17 the beginning of such 24-month period in the
18 hands of the taxpayer, or (ii) \$5,000.

19 “(C) LIMITATION ON LAND.—The term
20 ‘qualified area business property’ shall not in-
21 clude land which is not an integral part of a
22 qualified area business.

23 “(4) QUALIFIED AREA PARTNERSHIP INTER-
24 EST.—The term ‘qualified area partnership interest’
25 means any interest in a partnership if—

1 “(A) such interest is acquired by the tax-
2 payer from the partnership solely in exchange
3 for cash,

4 “(B) as of the time such interest was ac-
5 quired, such partnership was a qualified area
6 business (or, in the case of a new partnership,
7 such partnership was being organized for pur-
8 poses of being a qualified area business), and

9 “(C) during substantially all of the tax-
10 payer’s holding period for such interest, such
11 partnership qualified as a qualified area busi-
12 ness.

13 A rule similar to the rule of paragraph (2)(B) shall
14 apply for purposes of this paragraph.

15 “(5) TREATMENT OF SUBSEQUENT PUR-
16 CHASERS.—The term ‘qualified area investment’ in-
17 cludes any property which would be a qualified area
18 investment but for paragraph (2)(A)(i), (3)(A)(ii), or
19 (4)(A) in the hands of the taxpayer if such property
20 was a qualified area investment in the hands of any
21 prior holder.

22 “(6) 10-YEAR SAFE HARBOR.—If any property
23 ceases to be a qualified area investment by reason
24 of paragraph (2)(A)(iii), (3)(A)(iii), or (4)(C) after
25 the 10-year period beginning on the date the tax-

1 payer acquired such property, such property shall
2 continue to be treated as meeting the requirements
3 of such paragraph; except that the amount of gain
4 to which subsections (a) and (b) apply on any sale
5 or exchange of such property shall not exceed the
6 amount which would be long-term capital gain had
7 such property been sold on the date of such ces-
8 sation.

9 “(7) TREATMENT OF AREA TERMINATIONS.—
10 The termination of any designation of an area as an
11 economic recovery area shall be disregarded for pur-
12 poses of determining whether any property is a
13 qualified area investment.

14 “(d) OTHER DEFINITIONS AND SPECIAL RULES.—
15 For purposes of this section—

16 “(1) QUALIFIED AREA BUSINESS.—The term
17 ‘qualified area business’ means any business which
18 would be an enterprise zone business as defined in
19 section 1397B if ‘economic recovery area’ were sub-
20 stituted for ‘empowerment zone’ each place it ap-
21 pears.

22 “(2) QUALIFIED BUSINESS.—The term ‘quali-
23 fied business’ has the meaning given such term by
24 section 1397B(d), determined by substituting ‘eco-

1 nomic recovery area’ for ‘empowerment zone’ each
2 place it appears.

3 “(3) GAIN ATTRIBUTABLE TO PERIODS AFTER
4 TERMINATION OF AREA DESIGNATION NOT QUALI-
5 FIED.—The amount of gain to which subsections (a)
6 and (b) apply on any sale or exchange of property
7 shall not include any gain attributable to periods
8 after the termination of any designation of an area
9 as an economic recovery area.

10 “(e) TREATMENT OF PASS-THRU ENTITIES.—

11 “(1) SALES AND EXCHANGES.—Gain on the
12 sale or exchange of an interest in a pass-thru entity
13 held by the taxpayer (other than an interest in an
14 entity which was a qualified area business during
15 substantially all of the period the taxpayer held such
16 interest) for more than 5 years shall be treated as
17 gain on a qualified area investment to the extent
18 such gain is attributable to amounts which would be
19 long-term capital gain on qualified area investments
20 (determined as if such investments had been sold on
21 the date of the sale or exchange) held by such entity
22 for more than 5 years and throughout the period the
23 taxpayer held such interest. A rule similar to the
24 rule of paragraph (2)(C) shall apply for purposes of
25 the preceding sentence.

1 “(2) INCOME INCLUSIONS.—

2 “(A) IN GENERAL.—Any amount included
3 in income by reason of holding an interest in a
4 pass-thru entity (other than an entity which
5 was a qualified area business during substan-
6 tially all of the period the taxpayer held the in-
7 terest to which such inclusion relates) shall be
8 treated as gain on a qualified area investment
9 if such amount meets the requirements of sub-
10 paragraph (B).

11 “(B) REQUIREMENTS.—An amount meets
12 the requirements of this subparagraph if—

13 “(i) such amount is attributable to
14 long-term capital gain recognized on the
15 sale or exchange by the pass-thru entity of
16 property which is a qualified area invest-
17 ment asset in the hands of such entity and
18 which was held by such entity for more
19 than 5 years, and

20 “(ii) such amount is includible in the
21 gross income of the taxpayer by reason of
22 the holding of an interest in such entity
23 which was held by the taxpayer on the date
24 on which such pass-thru entity acquired
25 such asset and at all times thereafter be-

1 fore the disposition of such asset by such
2 pass-thru entity.

3 “(C) LIMITATION BASED ON INTEREST
4 ORIGINALLY HELD BY TAXPAYER.—Subpara-
5 graph (A) shall not apply to any amount to the
6 extent such amount exceeds the amount to
7 which subparagraph (A) would have applied if
8 such amount were determined by reference to
9 the interest the taxpayer held in the pass-thru
10 entity on the date the qualified area asset was
11 acquired.

12 “(3) PASS-THRU ENTITY.—For purposes of this
13 subsection, the term ‘pass-thru entity’ means—

14 “(A) any partnership,

15 “(B) any S corporation,

16 “(C) any regulated investment company,

17 and

18 “(D) any common trust fund.

19 “(f) SALES AND EXCHANGES OF INTERESTS IN
20 PARTNERSHIPS AND S CORPORATIONS WHICH ARE
21 QUALIFIED AREA BUSINESSES.—In the case of the sale
22 or exchange of an interest in a partnership, or of stock
23 in an S corporation, which was a qualified area business
24 during substantially all of the period the taxpayer held

1 such interest or stock, the amount of long-term capital
2 gain shall be determined without regard to—

3 “(1) any intangible, and any land, which is not
4 an integral part of any qualified business, and

5 “(2) gain attributable to periods before the des-
6 ignation of an area as an economic recovery area.

7 “(g) CERTAIN TAX-FREE AND OTHER TRANS-
8 FERS.—For purposes of this section—

9 “(1) IN GENERAL.—In the case of a transfer of
10 a qualified area investment to which this subsection
11 applies, the transferee shall be treated as—

12 “(A) having acquired such investment in
13 the same manner as the transferor, and

14 “(B) having held such investment during
15 any continuous period immediately preceding
16 the transfer during which it was held (or treat-
17 ed as held under this subsection) by the trans-
18 feror.

19 “(2) TRANSFERS TO WHICH SUBSECTION AP-
20 PLIES.—This subsection shall apply to any trans-
21 fer—

22 “(A) by gift,

23 “(B) at death, or

24 “(C) from a partnership to a partner
25 thereof of a qualified area investment with re-

1 spect to which the requirements of subsection
2 (e)(2) are met at the time of the transfer (with-
3 out regard to the 5-year holding requirement).

4 “(3) CERTAIN RULES MADE APPLICABLE.—
5 Rules similar to the rules of section 1244(d)(2) shall
6 apply for purposes of this section.

7 **“SEC. 1399F. OTHER INCENTIVES.**

8 “(a) EXPENSING OF EQUIPMENT AND LEASEHOLD
9 IMPROVEMENTS.—

10 “(1) IN GENERAL.—In the case of a qualified
11 area business (as defined in section 1399E(d)), for
12 purposes of section 179—

13 “(A) the limitations of paragraphs (1) and
14 (2) of section 179(b) shall not apply to section
15 179 property which is qualified area property
16 placed in service during the taxable year, and

17 “(B) leasehold improvements placed in
18 service by the lessor in an economic recovery
19 area shall be treated as section 179 property
20 for purposes of subparagraph (A) and section
21 179.

22 “(2) RECAPTURE.—Rules similar to the rules
23 under section 179(d)(10) shall apply with respect to
24 any qualified area property which ceases to be used

1 in an economic recovery area by a qualified area
2 business.

3 “(3) QUALIFIED AREA PROPERTY.—For pur-
4 poses of this subsection, the term ‘qualified area
5 property’ means any property which would be quali-
6 fied zone property as defined in section 1397C, if
7 ‘economic recovery area’ were substituted for
8 ‘empowerment zone’ each place it appears.

9 “(b) PASSIVE LOSS RULES NOT TO APPLY TO REHA-
10 BILITATION OF HISTORIC STRUCTURES.—Section 469
11 shall not apply to so much of the rehabilitation credit de-
12 termined under section 47 as is attributable to certified
13 historic structures (as defined in section 47(c)(3)) located
14 in an economic recovery area.

15 “(c) DOUBLE DEDUCTION FOR SECURITY DE-
16 VICES.—The amount of any deduction otherwise allowable
17 under section 162 for any security expenses shall be in-
18 creased by 100 percent of such amount.”

19 (b) REDUCTION IN CAPITAL GAINS RATES.—

20 (1) TAXPAYERS OTHER THAN CORPORA-
21 TIONS.—Subsection (h) of section 1 of such Code
22 (relating to maximum capital gains rate) is amended
23 to read as follows:

24 “(h) MAXIMUM CAPITAL GAINS RATE.—

1 “(1) IN GENERAL.—If a taxpayer has a net
2 capital gain for any taxable year, then the tax im-
3 posed by this section shall not exceed the sum of—

4 “(A) a tax computed at the rates and in
5 the same manner as if this subsection had not
6 been enacted on the greater of—

7 “(i) taxable income reduced by the
8 amount of the net capital gain, or

9 “(ii) the amount of taxable income
10 taxed at a rate below 10 percent, plus

11 “(B) a tax of 10 percent on the lesser of—

12 “(i) the net capital gain determined
13 by only taking into account gain and loss
14 attributable to qualified area investments
15 (as defined in section 1399E(c)), or

16 “(ii) the amount of taxable income in
17 excess of the amount on which tax is deter-
18 mined under subparagraph (A), plus

19 “(C) a tax of 28 percent of taxable income
20 in excess of the sum of the amounts on which
21 tax was determined under subparagraphs (A)
22 and (B).

23 “(2) COORDINATION WITH INVESTMENT IN-
24 COME ELECTION.—For purposes of paragraph (1),
25 the net capital gain for any taxable year shall be re-

1 duced (but not below zero) by the amount which the
2 taxpayer elects to take into account as investment
3 income for the taxable year under section
4 163(d)(4)(B)(iii).”

5 (2) CORPORATIONS.—Paragraph (2) of section
6 1201(a) of such Code is amended to read as follows:

7 “(2)(A) a tax of 17 percent of the lesser of—

8 “(i) the net capital gain determined by
9 only taking into account gain and loss attrib-
10 utable to qualified area investments (as defined
11 in section 1399E(c)), or

12 “(ii) the net capital gain, plus

13 “(B) a tax of 35 percent of the net capital gain
14 in excess of the amount on which tax was deter-
15 mined under subparagraph (A).”

16 (c) TECHNICAL AMENDMENTS.—

17 (1) EMPLOYMENT CREDIT PART OF GENERAL
18 BUSINESS CREDIT.—

19 (A) Subsection (b) of section 38 of such
20 Code (relating to current year business credit)
21 is amended by striking “plus” at the end of
22 paragraph (10), by striking the period at the
23 end of paragraph (11) and inserting “, plus”,
24 and by adding at the end the following new
25 paragraph:

1 “(12) the economic recovery area employment
2 credit determined under section 1399D(a).”

3 (B) Subsection (d) of section 39 of such
4 Code is amended by adding at the end the fol-
5 lowing new paragraph:

6 “(4) ECONOMIC RECOVERY AREA EMPLOYMENT
7 CREDIT.—No portion of the unused business credit
8 which is attributable to the credit determined under
9 section 1399D (relating to economic recovery area
10 employment credit) may be carried to any taxable
11 year ending before January 1, 1995.”

12 (2) DENIAL OF DEDUCTION FOR PORTION OF
13 WAGES EQUAL TO ECONOMIC RECOVERY AREA EM-
14 PLOYMENT CREDIT.—

15 (A) Subsection (a) of section 280C of such
16 Code (relating to rule for targeted jobs credit)
17 is amended by striking “and 1396(a)” and in-
18 serting “, 1396(a), and 1399D(a)”.

19 (B) Subsection (c) of section 196 of such
20 Code (relating to deduction for certain unused
21 business credits) is amended by striking “and”
22 at the end of paragraph (6), by striking the pe-
23 riod at the end of paragraph (7) and inserting
24 “, and”, and by adding at the end the following
25 new paragraph:

1 “(8) the economic recovery area employment
2 credit determined under section 1399D(a).”

3 (3) CARRYOVERS.—Subsection (c) of section
4 381 of such Code (relating to carryovers in certain
5 corporate acquisitions) is amended by adding at the
6 end the following new paragraph:

7 “(27) ECONOMIC RECOVERY AREA PROVI-
8 SIONS.—The acquiring corporation shall take into
9 account (to the extent proper to carry out the pur-
10 poses of this section and subchapter W, and under
11 such regulations as may be prescribed by the Sec-
12 retary) the items required to be taken into account
13 for purposes of subchapter W in respect of the dis-
14 tributor or transferor corporation.”

15 (4) The table of subchapters for chapter 1 of
16 such Code is amended by inserting after the item re-
17 lating to subchapter V the following new item:

 “Subchapter W. Designation and treatment of economic recovery
 areas.”

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall take effect on the date of the enactment
20 of this Act.

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