

104TH CONGRESS
1ST SESSION

H. R. 726

To amend the Internal Revenue Code of 1986 to provide assistance to first-time homebuyers.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 30, 1995

Mr. ORTON 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 assistance to first-time homebuyers.

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 “First-time Homebuyer
5 Affordability Act of 1995”.

6 **SEC. 2. FINDINGS AND POLICY.**

7 (a) FINDINGS.—The Congress finds that—

8 (1) it is desirable to make funds available from
9 individual retirement plans to encourage first time
10 home ownership, and

1 (2) the tax and penalty on the premature with-
2 drawal of funds from individual retirement plans are
3 substantial impediments to making such funds avail-
4 able for that purpose.

5 (b) POLICY.—It is the policy of the Congress to re-
6 move impediments to home investment by first-time home-
7 buyers by permitting owners of individual retirement plans
8 to direct the trustees of such plans to invest plan funds
9 as home equity or debt in the homes of such owners or
10 in the home of family members who are first-time home-
11 buyers.

12 **SEC. 3. CERTAIN RETIREMENT PLANS AUTHORIZED TO**
13 **MAKE EQUITY INVESTMENTS IN PRINCIPAL**
14 **RESIDENCES FOR FIRST-TIME HOMEBUYERS.**

15 (a) EXEMPTION FROM PROHIBITED TRANSACTION
16 RULES.—Section 4975 of the Internal Revenue Code of
17 1986 (relating to tax on prohibited transactions) is
18 amended by redesignating subsections (h) and (i) as sub-
19 sections (i) and (j), respectively, and by inserting after
20 subsection (g) the following new subsection:

21 “(h) SPECIAL RULE FOR HOME EQUITY PARTICIPA-
22 TION ARRANGEMENTS.—

23 “(1) IN GENERAL.—The prohibitions provided
24 in subsection (c) shall not apply to any qualified
25 home equity participation arrangement.

1 “(2) QUALIFIED HOME EQUITY PARTICIPATION
2 ARRANGEMENT.—For purposes of this subsection—

3 “(A) IN GENERAL.—The term ‘qualified
4 home equity participation arrangement’ means
5 an arrangement—

6 “(i) under which the trustee of an in-
7 dividual retirement plan, at the direction of
8 the eligible participant, shall acquire an
9 ownership interest in any dwelling unit
10 which within a reasonable period of time
11 (determined at the time the arrangement is
12 executed) is to be used as the principal res-
13 idence for a first-time homebuyer, and

14 “(ii) which meets the requirements of
15 subparagraph (B) of this paragraph.

16 “(B) OWNERSHIP INTEREST REQUIRE-
17 MENT.—An arrangement shall meet the re-
18 quirements of this subparagraph if the owner-
19 ship interest described in subparagraph (A)—

20 “(i) is a fee interest in such property
21 (and, in the case of an arrangement which
22 is not otherwise at arm’s length, the trust-
23 ee’s fee interest would be reasonable in an
24 arm’s length arrangement),

1 “(ii) by its terms requires repayment
2 in full upon the sale or other transfer of
3 the dwelling unit, and

4 “(iii) may not be used as security for
5 any loan secured by any interest in the
6 dwelling unit.

7 “(3) DEFINITIONS.—For purposes of this sub-
8 section—

9 “(A) ELIGIBLE PARTICIPANT.—The term
10 ‘eligible participant’ means an individual on
11 whose behalf an individual retirement plan is
12 established.

13 “(B) FIRST-TIME HOMEBUYER.—The term
14 ‘first-time homebuyer’ means an individual
15 who—

16 “(i) is an eligible participant or quali-
17 fied family member, and

18 “(ii) had (and if married, such indi-
19 vidual’s spouse had) no present ownership
20 interest in a principal residence at any
21 time during the 36-month period before
22 the date of the arrangement.

23 “(C) QUALIFIED FAMILY MEMBER.—The
24 term ‘qualified family member’ means a child
25 (as defined in section 151(c)(3)), parent, or

1 grandparent of the eligible participant (or such
2 participant's spouse). Section 152(b)(2) shall
3 apply in determining if an individual is a parent
4 or grandparent of an eligible participant (or
5 such participant's spouse).

6 “(D) ACQUISITION; ETC.—

7 “(i) ACQUISITION.—The term ‘acqui-
8 sition’ includes construction, reconstruc-
9 tion, and improvement related to such ac-
10 quisition.

11 “(ii) ACQUISITION COST.—The term
12 ‘acquisition cost’ has the meaning given
13 such term by section 143(k)(3).

14 “(E) PRINCIPAL RESIDENCE.—The term
15 ‘principal residence’ has the same meaning as
16 when used in section 1034.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to arrangements entered into after
19 the date of the enactment of this Act.

20 **SEC. 4. LOANS USED TO ACQUIRE PRINCIPAL RESIDENCES**
21 **FOR FIRST-TIME HOMEBUYERS.**

22 (a) INDIVIDUAL RETIREMENT PLANS.—Section
23 408(e) of the Internal Revenue Code of 1986 (relating to
24 tax treatment of accounts and annuities) is amended by
25 adding at the end thereof the following new paragraph:

1 “(7) LOANS USED TO PURCHASE A HOME FOR
2 FIRST-TIME HOMEBUYERS.—

3 “(A) IN GENERAL.—Paragraph (3) shall
4 not apply to any qualified home purchase loan
5 made by an individual retirement plan.

6 “(B) QUALIFIED HOME PURCHASE
7 LOAN.—For purposes of this paragraph, the
8 term ‘qualified home purchase loan’ means a
9 loan—

10 “(i) made by the trustee of an individ-
11 ual retirement plan at the direction of the
12 individual on whose behalf such plan is es-
13 tablished,

14 “(ii) the proceeds of which are used
15 for the acquisition of a dwelling unit which
16 within a reasonable period of time (deter-
17 mined at the time the loan is made) is to
18 be used as the principal residence for a
19 first-time homebuyer,

20 “(iii) which by its terms requires re-
21 payment in full not later than the earlier
22 of—

23 “(I) the date which is 15 years
24 after the date of acquisition of the
25 dwelling unit, or

1 “(II) the date of the sale or other
2 transfer of the dwelling unit,

3 “(iv) which by its terms treats any
4 amount remaining unpaid in the taxable
5 year beginning after the period described
6 in clause (iii) as distributed in such taxable
7 year to the individual on whose behalf such
8 plan is established and subject to section
9 72(t)(1), and

10 “(v) which bears interest from the
11 date of the loan at a rate not less than 2
12 percentage points below, and not more
13 than 2 percentage points above, the rate
14 for comparable United States Treasury ob-
15 ligations on such date.

16 Nothing in this paragraph shall be construed to
17 require such a loan to be secured by the dwell-
18 ing unit.

19 “(C) DEFINITIONS.—For purposes of this
20 paragraph—

21 “(i) FIRST-TIME HOMEBUYER.—The
22 term ‘first-time homebuyer’ has the mean-
23 ing given such term by section
24 4975(h)(3)(B).

1 “(ii) ACQUISITION.—The term ‘acqui-
2 sition’ has the meaning given such term by
3 section 4975(h)(3)(D)(i).

4 “(iii) PRINCIPAL RESIDENCE.—The
5 term ‘principal residence’ has the same
6 meaning as when used in section 1034.

7 “(iv) DATE OF ACQUISITION.—The
8 term ‘date of acquisition’ means the date—

9 “(I) on which a binding contract
10 to acquire the principal residence to
11 which subparagraph (B) applies is en-
12 tered into, or

13 “(II) on which construction, re-
14 construction, or improvement of such
15 a principal residence is commenced.”.

16 (b) PROHIBITED TRANSACTION.—Section 4975(d) of
17 the Internal Revenue Code of 1986 (relating to exemptions
18 from tax on prohibited transactions) is amended by strik-
19 ing “or” at the end of paragraph (14), by striking the
20 period at the end of paragraph (15) and inserting “; or”,
21 and by inserting after paragraph (15) the following new
22 paragraph:

23 “(16) any loan that is a qualified home pur-
24 chase loan (as defined in section 408(e)(7)(B)).”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to loans made after the date of
3 the enactment of this Act.

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