

105TH CONGRESS
1ST SESSION

H. R. 2604

To amend title 11, United States Code, to protect certain charitable contributions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 2, 1997

Mr. PACKARD (for himself, Mr. GINGRICH, Mr. FAZIO of California, Mr. ARMEY, Mr. LEWIS of Georgia, Mr. WATTS of Oklahoma, Mr. JACKSON of Illinois, Mr. LIVINGSTON, Mr. BOEHNER, Mr. MCKEON, Mr. CUNNINGHAM, Mr. HANSEN, Mr. FLAKE, Mr. HERGER, Mr. CRAPO, Mr. DOOLITTLE, Mr. STUMP, Mr. CANNON, Mr. TRAFICANT, Mr. BONILLA, Mr. STENHOLM, Mr. SOUDER, Mr. YOUNG of Alaska, Mr. SHIMKUS, Mr. WOLF, Mr. SAWYER, Mr. SAM JOHNSON of Texas, Mr. HUNTER, Mr. ISTOOK, Mr. COX of California, Mr. FILNER, Mr. EWING, Mr. CHRISTENSEN, Mr. REDMOND, Mr. GALLEGLY, Mr. LEWIS of California, Mr. BARR of Georgia, Mr. DREIER, Mr. CRAMER, Mr. TAYLOR of Mississippi, Mr. WELDON of Florida, Mr. MILLER of California, Mr. BERMAN, Mr. CAPPS, Mr. WATKINS, Mr. BRADY, Mrs. LINDA SMITH of Washington, Mr. ROHRBACHER, Mr. COOK, Mr. GUTIERREZ, Mr. PASTOR, Mr. BILBRAY, Mr. LAHOOD, Mr. PITTS, Mr. ORTIZ, Mr. WALSH, Mr. MCHUGH, Mr. HOEKSTRA, Mr. BUNNING, Mr. CONDIT, Mr. SMITH of New Jersey, Mrs. CLAYTON, Mr. BROWN of California, Mr. RADANOVICH, Mr. SALMON, Mr. SMITH of Michigan, and Mr. HALL of Ohio) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 11, United States Code, to protect certain charitable contributions, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Religious Liberty and
3 Charitable Donation Protection Act of 1997”.

4 **SEC. 2. DEFINITIONS.**

5 Section 548(d) of title 11, United States Code, is
6 amended by adding at the end the following:

7 “(3) In this section, the term ‘charitable contribution’
8 means a charitable contribution, as that term is defined
9 in section 170(c) of the Internal Revenue Code of 1986,
10 if that contribution—

11 “(A) is made by a natural person; and

12 “(B) consists of—

13 “(i) a financial instrument (as that term is
14 defined in section 731(c)(2)(C) of the Internal
15 Revenue Code of 1986); or

16 “(ii) cash.

17 “(4) In this section, the term ‘qualified religious or
18 charitable entity or organization’ means—

19 “(A) an entity described in section 170(c)(1) of
20 the Internal Revenue Code of 1986; or

21 “(B) an entity or organization described in sec-
22 tion 170(c)(2) of the Internal Revenue Code of
23 1986.”.

1 **SEC. 3. TREATMENT OF PREPETITION QUALIFIED CHARITABLE CONTRIBUTIONS.**
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3 (a) IN GENERAL.—Section 548(a) of title 11, United
 4 States Code, is amended—

5 (1) by inserting “(1)” after “(a)”;

6 (2) by striking “(1) made” and inserting “(A)
 7 made”;

8 (3) by striking “(2)(A)” and inserting “(B)(i);

9 (4) by striking “(B)(i)” and inserting “(ii)(I)”;

10 (5) by striking “(ii) was” and inserting “(II)
 11 was”;

12 (6) by striking “(iii)” and inserting “(III)”;

13 and

14 (7) by adding at the end the following:

15 “(2) A transfer of a charitable contribution to a
 16 qualified religious or charitable entity or organization shall
 17 not be considered to be a transfer covered under para-
 18 graph (1)(B) in any case in which—

19 “(A) the amount of that contribution does not
 20 exceed 15 percent of the gross annual income of the
 21 debtor for the year in which the transfer of the con-
 22 tribution is made; or

23 “(B) the contribution made by a debtor ex-
 24 ceeded the percentage amount of gross annual in-
 25 come specified in subparagraph (A), if the transfer

1 was consistent with the practices of the debtor in
2 making charitable contributions.”.

3 (b) TRUSTEE AS LIEN CREDITOR AND AS SUCCESSOR
4 TO CERTAIN CREDITORS AND PURCHASERS.—Section
5 544(b) of title 11, United States Code, is amended—

6 (1) by striking “(b) The trustee” and inserting
7 “(b)(1) Except as provided in paragraph (2), the
8 trustee”; and

9 (2) by adding at the end the following:

10 “(2) Paragraph (1) shall not apply to a transfer of
11 a charitable contribution (as that term is defined in sec-
12 tion 548(d)(3)) that is not covered under section
13 548(a)(1)(B), by reason of section 548(a)(2).”.

14 (c) CONFORMING AMENDMENTS.—Section 546 of
15 title 11, United States Code, is amended—

16 (1) in subsection (e)—

17 (A) by striking “548(a)(2)” and inserting
18 “548(a)(1)(B)”; and

19 (B) by striking “548(a)(1)” and inserting
20 “548(a)(1)(A)”;

21 (2) in subsection (f)—

22 (A) by striking “548(a)(2)” and inserting
23 “548(a)(1)(B)”; and

24 (B) by striking “548(a)(1)” and inserting
25 “548(a)(1)(A)”; and

1 (3) in subsection (g)—

2 (A) by striking “section 548(a)(1)” each
3 place it appears and inserting “section
4 548(a)(1)(A)”; and

5 (B) by striking “548(a)(2)” and inserting
6 “548(a)(1)(B)”.

7 **SEC. 4. TREATMENT OF POST-PETITION CHARITABLE CON-**
8 **TRIBUTIONS.**

9 (a) CONFIRMATION OF PLAN.—Section
10 1325(b)(2)(A) of title 11, United States Code, is amended
11 by inserting before the semicolon the following: “, includ-
12 ing charitable contributions (that meet the definition of
13 ‘charitable contribution’ under section 548(d)(3)) to a
14 qualified religious or charitable entity or organization (as
15 that term is defined in section 548(d)(4)) in an amount
16 not to exceed 15 percent of the gross income of the debtor
17 for the year in which the contributions are made”.

18 (b) DISMISSAL.—Section 707(b) of title 11, United
19 States Code, is amended by adding at the end the follow-
20 ing: “In making a determination whether to dismiss a case
21 under this section, the court may not take into consider-
22 ation whether a debtor has made, or continues to make,
23 charitable contributions (that meet the definition of ‘chari-
24 table contribution’ under section 548(d)(3)) to any quali-

1 fied religious or charitable entity or organization (as that
2 term is defined in section 548(d)(4)).”.

3 **SEC. 5. APPLICABILITY.**

4 This Act and the amendments made by this Act shall
5 apply to any case brought under an applicable provision
6 of title 11, United States Code, that is pending or com-
7 menced on or after the date of enactment of this Act.

8 **SEC. 6. RULE OF CONSTRUCTION.**

9 Nothing in the amendments made by this Act is in-
10 tended to limit the applicability of the Religious Freedom
11 Restoration Act of 1993 (42 U.S.C. 2002bb et seq.).

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