

112TH CONGRESS  
1ST SESSION

# H. R. 3104

To amend the Internal Revenue Code of 1986 to provide penalty free distributions from certain retirement plans for mortgage payments with respect to a principal residence and to modify the rules governing hardship distributions.

---

## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 5, 2011

Mr. GRAVES of Georgia (for himself, Mr. MULVANEY, Mr. COLE, Mr. BARTLETT, Mr. SOUTHERLAND, Mr. FRANKS of Arizona, Mr. WALSH of Illinois, and Mr. HUELSKAMP) 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 penalty free distributions from certain retirement plans for mortgage payments with respect to a principal residence and to modify the rules governing hardship distributions.

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 “Hardship Outlays to  
5 protect Mortgagee Equity Act of 2011” or as the “HOME  
6 Act of 2011”.

1 **SEC. 2. WAIVER OF TAX ON EARLY DISTRIBUTIONS FROM**  
2 **CERTAIN RETIREMENT PLANS FOR MORT-**  
3 **GAGE PAYMENTS WITH RESPECT TO A PRIN-**  
4 **CIPAL RESIDENCE.**

5 (a) IN GENERAL.—Paragraph (2) of section 72(t) of  
6 the Internal Revenue Code of 1986 is amended by adding  
7 at the end the following new subparagraph:

8 “(H) DISTRIBUTIONS FOR PRINCIPAL RES-  
9 IDENCE MORTGAGE PAYMENTS.—Distributions  
10 to an individual which are qualified principal  
11 residence mortgage payment distributions (as  
12 defined in paragraph (9)). Distributions shall  
13 not be taken into account under the preceding  
14 sentence if such distributions are described in  
15 subparagraph (A), (C), (D), (E), or (F) or to  
16 the extent paragraph (1) does not apply to such  
17 distributions by reason of subparagraph (B).”.

18 (b) QUALIFIED PRINCIPAL RESIDENCE MORTGAGE  
19 PAYMENT DISTRIBUTIONS.—Subsection (t) of section 72  
20 of such Code is amended by redesignating paragraphs (9)  
21 and (10) as paragraphs (10) and (11), respectively, and  
22 by inserting after paragraph (8) the following new para-  
23 graph:

24 “(9) QUALIFIED PRINCIPAL RESIDENCE MORT-  
25 GAGE PAYMENT DISTRIBUTIONS.—

1           “(A) IN GENERAL.—For purposes of para-  
2 graph (2)(H), the term ‘qualified principal resi-  
3 dence mortgage payment distribution’ means  
4 any payment or distribution received by an indi-  
5 vidual to the extent such payment or distribu-  
6 tion is used by the individual before the close  
7 of the 120th day after the day on which such  
8 payment or distribution is received to pay quali-  
9 fied mortgage costs with respect to a principal  
10 residence (within the meaning of section 121)  
11 of such individual or the spouse of such indi-  
12 vidual.

13           “(B) AGGREGATE LIFETIME DOLLAR LIM-  
14 ITATION.—The aggregate amount of payments  
15 or distributions received by an individual which  
16 may be treated as qualified principal residence  
17 mortgage payment distributions for any taxable  
18 year shall not exceed the excess (if any) of—

19                   “(i) \$50,000, over

20                   “(ii) the aggregate amounts treated as  
21 qualified principal residence mortgage pay-  
22 ment distributions with respect to such in-  
23 dividual for all prior taxable years.

24           “(C) PLAN DOLLAR LIMITATION.—The ag-  
25 gregate amount of payments or distributions re-

1 received by an individual which may be treated as  
2 qualified principal residence mortgage payment  
3 distributions with respect to any qualified re-  
4 tirement plan (as defined in section 4974(e))  
5 for any taxable year shall not exceed one-half  
6 the present value of the nonforfeitable accrued  
7 benefit of the individual under the plan (deter-  
8 mined as of the beginning of such taxable year).

9 “(D) QUALIFIED MORTGAGE COSTS.—For  
10 purposes of this paragraph, the term ‘qualified  
11 mortgage costs’ means amounts paid as prin-  
12 cipal or interest on acquisition indebtedness, as  
13 defined in section 163(h)(3)(B), except that—

14 “(i) the dollar limitation of clause (ii)  
15 of such section shall not apply, and

16 “(ii) any reference to a qualified resi-  
17 dence shall be treated as a reference to the  
18 principal residence referred to in subpara-  
19 graph (A).”.

20 (e) CONFORMING AMENDMENTS.—

21 (1) Section 401(k)(2)(B)(i) of such Code is  
22 amended by striking “or” at the end of subclause  
23 (IV), by striking “and” at the end of subclause (V)  
24 and inserting “or”, and by adding at the end the fol-  
25 lowing new subclause:

1                   “(VI) in the case of a qualified  
2                   principal residence mortgage payment  
3                   distribution (as defined in section  
4                   72(t)(9)), the date of such distribu-  
5                   tion, and”.

6                   (2) Paragraphs (7)(A)(ii) and (11)(C) of sec-  
7                   tion 403(b) of such Code are each amended by strik-  
8                   ing “section 72(t)(2)(G)” and inserting “subpara-  
9                   graph (G) or (H) of section 72(t)”.

10                  (d) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to distributions made in taxable  
12 years ending after the date of the enactment of this Act.

○