

116TH CONGRESS
1ST SESSION

S. _____

To amend the Internal Revenue Code of 1986 to provide for rules for the use of retirement funds in connection with federally declared disasters.

IN THE SENATE OF THE UNITED STATES

Mr. CASSIDY introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to provide for rules for the use of retirement funds in connection with federally declared disasters.

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. SPECIAL RULES FOR USE OF RETIREMENT**
4 **FUNDS IN CONNECTION WITH QUALIFIED**
5 **FEDERALLY DECLARED DISASTERS.**

6 (a) TAX-FAVORED WITHDRAWALS FROM RETIRE-
7 MENT PLANS.—

8 (1) IN GENERAL.—Paragraph (2) of section
9 72(t) of the Internal Revenue Code of 1986 is

1 amended by adding at the end the following new
2 subparagraph:

3 “(I) DISTRIBUTIONS FROM RETIREMENT
4 PLANS IN CONNECTION WITH FEDERALLY DE-
5 CLARED DISASTERS.—Any qualified disaster re-
6 covery distribution.”.

7 (2) QUALIFIED DISASTER RECOVERY DISTRIBUTION.—Section 72(t) of such Code is amended by
8 adding at the end the following new paragraph:
9

10 “(11) QUALIFIED DISASTER RECOVERY DIS-
11 TRIBUTION.—For purposes of paragraph (2)(I)—

12 “(A) IN GENERAL.—Except as provided in
13 subparagraph (B), the term ‘qualified disaster
14 recovery distribution’ means any distribution
15 made—

16 “(i) on or after the first day of the in-
17 cident period of a qualified disaster and
18 before the date that is 180 days after the
19 applicable date with respect to such dis-
20 aster, and

21 “(ii) to an individual whose principal
22 place of abode at any time during the inci-
23 dent period of such qualified disaster is lo-
24 cated in the qualified disaster area with re-
25 spect to such qualified disaster and who

1 has sustained an economic loss by reason
2 of such qualified disaster.

3 “(B) AGGREGATE DOLLAR LIMITATION.—

4 “(i) IN GENERAL.—For purposes of
5 this subsection, the aggregate amount of
6 distributions received by an individual
7 which may be treated as qualified disaster
8 recovery distributions with respect to any
9 qualified disaster shall not exceed the ex-
10 cess (if any) of—

11 “(I) \$100,000, over

12 “(II) the sum of aggregate
13 amounts treated as qualified disaster
14 recovery distributions with respect to
15 such qualified disaster received by
16 such individual.

17 “(ii) TREATMENT OF PLAN DISTRIBUTIONS.—If a distribution to an individual
18 would (without regard to clause (i)) be a
19 qualified disaster recovery distribution, a
20 plan shall not be treated as violating any
21 requirement of this title merely because
22 the plan treats such distribution as a
23 qualified disaster recovery distribution, un-
24 less the aggregate amount of such distribu-
25

1 tions from all plans maintained by the em-
2 ployer (and any member of any controlled
3 group which includes the employer) to such
4 individual exceeds \$100,000 with respect
5 to the same qualified disaster.

6 “(iii) CONTROLLED GROUP.—For pur-
7 poses of clause (ii), the term ‘controlled
8 group’ means any group treated as a single
9 employer under subsection (b), (c), (m), or
10 (o) of section 414.

11 “(iv) SPECIAL RULE FOR INDIVIDUALS
12 AFFECTED BY MORE THAN ONE DIS-
13 ASTER.—The limitation of clause (i) shall
14 be applied separately with respect to dis-
15 tributions made with respect to each quali-
16 fied disaster.

17 “(C) AMOUNT DISTRIBUTED MAY BE RE-
18 PAID.—

19 “(i) IN GENERAL.—Any individual
20 who receives a qualified disaster recovery
21 distribution may, at any time during the 3-
22 year period beginning on the day after the
23 date on which such distribution was re-
24 ceived, make one or more contributions in
25 an aggregate amount not to exceed the

1 amount of such distribution to an eligible
2 retirement plan of which such individual is
3 a beneficiary and to which a rollover con-
4 tribution of such distribution could be
5 made under section 402(c), 403(a)(4),
6 403(b)(8), 408(d)(3), or 457(e)(16), as the
7 case may be.

8 “(ii) TREATMENT OF REPAYMENTS OF
9 DISTRIBUTIONS FROM ELIGIBLE RETIRE-
10 MENT PLANS OTHER THAN IRAS.—For
11 purposes of this title, if a contribution is
12 made pursuant to clause (i) with respect to
13 a qualified disaster recovery distribution
14 from a plan other than an individual re-
15 tirement plan, then the taxpayer shall, to
16 the extent of the amount of the contribu-
17 tion, be treated as having received the
18 qualified disaster recovery distribution in
19 an eligible rollover distribution (as defined
20 in section 402(c)(4)) and as having trans-
21 ferred the amount to the eligible retire-
22 ment plan in a direct trustee to trustee
23 transfer within 60 days of the distribution.

24 “(iii) TREATMENT OF REPAYMENTS
25 FOR DISTRIBUTIONS FROM IRAS.—For

1 purposes of this title, if a contribution is
2 made pursuant to clause (i) with respect to
3 a qualified disaster recovery distribution
4 from an individual retirement plan, then,
5 to the extent of the amount of the con-
6 tribution, the qualified disaster recovery
7 distribution shall be treated as a distribu-
8 tion described in section 408(d)(3) and as
9 having been transferred to the eligible re-
10 tirement plan in a direct trustee to trustee
11 transfer within 60 days of the distribution.

12 “(D) INCOME INCLUSION SPREAD OVER 3-
13 YEAR PERIOD.—

14 “(i) IN GENERAL.—In the case of any
15 qualified disaster recovery distribution, un-
16 less the taxpayer elects not to have this
17 subparagraph apply for any taxable year,
18 any amount required to be included in
19 gross income for such taxable year shall be
20 so included ratably over the 3-taxable year
21 period beginning with such taxable year.

22 “(ii) SPECIAL RULE.—For purposes of
23 clause (i), rules similar to the rules of sub-
24 paragraph (E) of section 408A(d)(3) shall
25 apply.

1 “(E) QUALIFIED DISASTER.—For purposes
2 of this paragraph and paragraph (8), the term
3 ‘qualified disaster’ means any disaster with re-
4 spect to which a major disaster has been de-
5 clared by the President under section 401 of
6 the Robert T. Stafford Disaster Relief and
7 Emergency Assistance Act after December 31,
8 2020.

9 “(F) OTHER DEFINITIONS.—For purposes
10 of this paragraph and paragraph (8)—

11 “(i) QUALIFIED DISASTER AREA.—

12 “(I) IN GENERAL.—The term
13 ‘qualified disaster area’ means, with
14 respect to any qualified disaster, the
15 area with respect to which the major
16 disaster was declared under the Rob-
17 ert T. Stafford Disaster Relief and
18 Emergency Assistance Act.

19 “(II) EXCEPTIONS.—Such term
20 shall not include any area which is a
21 qualified disaster area solely by reason
22 of section 301 of the Taxpayer Cer-
23 tainty and Disaster Tax Relief Act of
24 2020.

1 “(ii) INCIDENT PERIOD.—The term
2 ‘incident period’ means, with respect to
3 any qualified disaster, the period specified
4 by the Federal Emergency Management
5 Agency as the period during which such
6 disaster occurred.

7 “(iii) APPLICABLE DATE.—The term
8 ‘applicable date’ means the latest of—

9 “(I) the date of the enactment of
10 this paragraph,

11 “(II) the first day of the incident
12 period with respect to the qualified
13 disaster, or

14 “(III) the date of the disaster
15 declaration with respect to the quali-
16 fied disaster.

17 “(iv) ELIGIBLE RETIREMENT PLAN.—
18 The term ‘eligible retirement plan’ shall
19 have the meaning given such term by sec-
20 tion 402(c)(8)(B).

21 “(G) SPECIAL RULES.—

22 “(i) EXEMPTION OF DISTRIBUTIONS
23 FROM TRUSTEE TO TRUSTEE TRANSFER
24 AND WITHHOLDING RULES.—For purposes
25 of sections 401(a)(31), 402(f), and 3405,

1 qualified disaster recovery distributions
2 shall not be treated as eligible rollover dis-
3 tributions.

4 “(ii) QUALIFIED DISASTER RECOVERY
5 DISTRIBUTIONS TREATED AS MEETING
6 PLAN DISTRIBUTION REQUIREMENTS.—
7 For purposes this title, a qualified disaster
8 recovery distribution shall be treated as
9 meeting the requirements of sections
10 401(k)(2)(B)(i), 403(b)(7)(A)(ii),
11 403(b)(11), and 457(d)(1)(A).”

12 (3) EFFECTIVE DATE.—The amendments made
13 by this subsection shall apply to distributions with
14 respect to disasters the incident beginning date (as
15 defined in section 72(t)(11)(F)(i) of the Internal
16 Revenue Code of 1986, as added by this subsection)
17 for which is after December 27, 2020.

18 (b) RECONTRIBUTIONS OF WITHDRAWALS FOR
19 HOME PURCHASES.—

20 (1) INDIVIDUAL RETIREMENT PLANS.—Para-
21 graph (8) of section 72(t) of the Internal Revenue
22 Code of 1986 is amended by adding at the end the
23 following new subparagraph:

24 “(F) RECONTRIBUTIONS.—

25 “(i) GENERAL RULE.—

1 “(II) which was to be used to
2 purchase or construct a principal resi-
3 dence in a qualified disaster area, but
4 which was not so used on account of
5 the qualified disaster with respect to
6 such area, and

7 “(III) which was received during
8 the period beginning on the date
9 which is 180 days before the first day
10 of the incident period of such qualified
11 disaster and ending on the date which
12 is 30 days after the last day of such
13 incident period.

14 “(iii) APPLICABLE PERIOD.—For pur-
15 poses of this subparagraph, the term ‘ap-
16 plicable period’ means, in the case of a
17 principal residence in a qualified disaster
18 area with respect to any qualified disaster,
19 the period beginning on the first day of the
20 incident period of such qualified disaster
21 and ending on the date which is 180 days
22 after the applicable date with respect to
23 such disaster.”.

24 (2) QUALIFIED PLANS.—Subsection (c) of sec-
25 tion 402 of the Internal Revenue Code of 1986 is

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

3 “(12) RECONTRIBUTIONS OF WITHDRAWALS
4 FOR HOME PURCHASES.—

5 “(A) GENERAL RULE.—

6 “(i) IN GENERAL.—Any individual
7 who received a qualified distribution may,
8 during the applicable period, make one or
9 more contributions in an aggregate amount
10 not to exceed the amount of such qualified
11 distribution to an eligible retirement plan
12 (as defined in paragraph (8)(B)) of which
13 such individual is a beneficiary and to
14 which a rollover contribution of such dis-
15 tribution could be made under subsection
16 (c) or section 403(a)(4), 403(b)(8), or
17 408(d)(3), as the case may be.

18 “(ii) TREATMENT OF REPAYMENTS.—
19 Rules similar to the rules of clauses (ii)
20 and (iii) of section 72(t)(11)(C) shall apply
21 for purposes of this subsection.

22 “(B) QUALIFIED DISTRIBUTION.—For
23 purposes of this paragraph, the term ‘qualified
24 distribution’ means any distribution—

1 “(i) described in section
2 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but
3 only to the extent such distribution relates
4 to financial hardship), or 403(b)(11)(B),

5 “(ii) which was to be used to purchase
6 or construct a principal residence in a
7 qualified disaster area, but which was not
8 so used on account of the qualified disaster
9 with respect to such area, and

10 “(iii) which was received during the
11 period beginning on the date which is 180
12 days before the first day of the incident pe-
13 riod of such qualified disaster and ending
14 on the date which is 30 days after the last
15 day of such incident period.

16 “(C) DEFINITIONS.—For purposes of this
17 paragraph—

18 “(i) the terms ‘qualified disaster’,
19 ‘qualified disaster area’, and ‘incident pe-
20 riod’ have the meaning given such terms
21 under section 72(t)(11), and

22 “(ii) the term ‘applicable period’ has
23 the meaning given such term under section
24 72(t)(8)(F).”.

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to distributions with
3 respect to disasters the incident beginning date (as
4 defined in section 72(t)(11)(F)(i) of the Internal
5 Revenue Code of 1986, as added by subsection (a))
6 for which is after December 27, 2020.

7 (c) LOANS FROM QUALIFIED PLANS.—

8 (1) IN GENERAL.—Subsection (p) of section 72
9 of the Internal Revenue Code of 1986 is amended by
10 adding at the end the following new paragraph:

11 “(6) INCREASE IN LIMIT ON LOANS NOT TREAT-
12 ED AS DISTRIBUTIONS.—

13 “(A) IN GENERAL.—In the case of any
14 loan from a qualified employer plan to a quali-
15 fied individual made during the applicable pe-
16 riod—

17 “(i) clause (i) of paragraph (2)(A)
18 shall be applied by substituting ‘\$100,000’
19 for ‘\$50,000’, and

20 “(ii) clause (ii) of such paragraph
21 shall be applied by substituting ‘the
22 present value of the nonforfeitable accrued
23 benefit of the employee under the plan’ for
24 ‘one-half of the present value of the non-

1 forfeitable accrued benefit of the employee
2 under the plan’.

3 “(B) DELAY OF REPAYMENT.—In the case
4 of a qualified individual (with respect to any
5 qualified disaster) with an outstanding loan on
6 or after the applicable disaster date from a
7 qualified employer plan—

8 “(i) if the due date pursuant to sub-
9 paragraph (B) or (C) of paragraph (2) for
10 any repayment with respect to such loan
11 occurs during the period beginning on the
12 first day of the incident period of such
13 qualified disaster and ending on the date
14 which is 180 days after the last day of
15 such incident period, such due date may be
16 delayed for 1 year,

17 “(ii) any subsequent repayments with
18 respect to any such loan may be appro-
19 priately adjusted to reflect the delay in the
20 due date under clause (i) and any interest
21 accruing during such delay, and

22 “(iii) in determining the 5-year period
23 and the term of a loan under subpara-
24 graph (B) or (C) of paragraph (2), the pe-

1 riod described in clause (i) may be dis-
2 regarded.

3 “(C) DEFINITIONS.—For purposes of this
4 paragraph—

5 “(i) QUALIFIED INDIVIDUAL.—The
6 term ‘qualified individual’ means any indi-
7 vidual—

8 “(I) whose principal place of
9 abode at any time during the incident
10 period of any qualified disaster is lo-
11 cated in the qualified disaster area
12 with respect to such qualified disaster,
13 and

14 “(II) who has sustained an eco-
15 nomic loss by reason of such qualified
16 disaster.

17 “(ii) APPLICABLE PERIOD.—The ap-
18 plicable period with respect to any disaster
19 is the period—

20 “(I) beginning on the applicable
21 date with respect to such disaster, and

22 “(II) ending on the date that is
23 180 days after such applicable date.

24 “(iii) OTHER TERMS.—For purposes
25 of this paragraph—

1 “(I) the terms ‘applicable date’,
2 ‘qualified disaster’, ‘qualified disaster
3 area’, and ‘incident period’ have the
4 meaning given such terms under sub-
5 section (t)(11), and

6 “(II) the term ‘applicable period’
7 has the meaning given such term
8 under subsection (t)(8).”.

9 (2) HOLD HARMLESS.—

10 (A) IN GENERAL.—A person shall not be
11 treated as having violated the provisions of title
12 I of the Employee Retirement Income Security
13 Act of 1974 solely because—

14 (i) the person made a plan loan to a
15 qualified individual (as defined in section
16 72(p)(6) of the Internal Revenue Code of
17 1986, as added by paragraph (1)) during
18 the applicable period (as defined in such
19 section 72(p)(6)) in compliance with sec-
20 tion 72(p)(6) of such Code; or

21 (ii) a qualified individual (as so de-
22 fined) delayed making a plan loan repay-
23 ment in compliance with section 72(p)(6)
24 of such Code.

1 (B) PROHIBITED TRANSACTIONS.—A per-
2 son shall be treated as being exempt from the
3 requirements of section 406 of the Employee
4 Retirement Income Security Act of 1974 pursu-
5 ant to subparagraphs (A) and (E) of section
6 408(b)(1) of such Act if the person meets the
7 requirements of clause (i) or (ii) of subpara-
8 graph (A).

9 (3) EFFECTIVE DATE.—The amendment made
10 by paragraph (1) shall apply to loans made with re-
11 spect to disasters the incident beginning date (as de-
12 fined in section 72(t)(11)(F)(i) of the Internal Rev-
13 enue Code of 1986, as added by subsection (a)) for
14 which is after December 27, 2020.

15 (d) PROVISIONS RELATING TO PLAN AMEND-
16 MENTS.—

17 (1) IN GENERAL.—If this subsection applies to
18 any amendment to any plan or annuity contract,
19 such plan or contract shall be treated as being oper-
20 ated in accordance with the terms of the plan during
21 the period described in paragraph (2)(B)(i).

22 (2) AMENDMENTS TO WHICH SUBSECTION AP-
23 PLIES.—

1 (A) IN GENERAL.—This subsection shall
2 apply to any amendment to any plan or annuity
3 contract which is made—

4 (i) pursuant to any amendment made
5 by this section, or pursuant to any regula-
6 tion issued by the Secretary or the Sec-
7 retary of Labor under any amendment
8 made by this section, and

9 (ii) on or before the last day of the
10 second calendar year beginning after the
11 date of the enactment of this Act, or such
12 later date as the Secretary may prescribe.

13 In the case of a governmental plan (as defined
14 in section 414(d)), clause (ii) shall be applied
15 by substituting the date which is 2 years after
16 the date otherwise applied under clause (ii).

17 (B) CONDITIONS.—This subsection shall
18 not apply to any amendment unless—

19 (i) during the period—

20 (I) beginning on the date that
21 the amendments made by this section,
22 or any regulation described in sub-
23 paragraph (A)(i), take effect (or in
24 the case of a plan or contract amend-
25 ment not required by amendments

1 made by this section or such regula-
2 tion, the effective date specified by the
3 plan), and
4 (II) ending on the date described
5 in subparagraph (A)(ii) (or, if earlier,
6 the date the plan or contract amend-
7 ment is adopted),
8 the plan or contract is operated as if such plan
9 or contract amendment were in effect; and
10 (ii) such plan or contract amendment
11 applies retroactively for such period.