

110TH CONGRESS  
1ST SESSION

# H. R. 4627

To provide for the penalty-free use of retirement funds for mortgage relief.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 13, 2007

Mr. FOSSELLA introduced the following bill; which was referred to the  
Committee on Ways and Means

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## A BILL

To provide for the penalty-free use of retirement funds for  
mortgage relief.

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 “Homeowners’ Assist-  
5 ance Act of 2007”.

6 **SEC. 2. TAX-FAVORED WITHDRAWALS FROM RETIREMENT**  
7 **PLANS FOR MORTGAGE RELIEF.**

8 (a) IN GENERAL.—Section 72(t) of the Internal Rev-  
9 enue Code of 1986 shall not apply to any qualified mort-  
10 gage relief distribution.

11 (b) AGGREGATE DOLLAR LIMITATION.—

1           (1) IN GENERAL.—For purposes of this section,  
2           the aggregate amount of distributions received by an  
3           individual which may be treated as qualified mort-  
4           gage relief distributions for any taxable year shall  
5           not exceed the excess (if any) of—

6                     (A) \$25,000, over

7                     (B) the aggregate amounts treated as  
8                     qualified mortgage relief distributions received  
9                     by such individual for all prior taxable years.

10          (2) TREATMENT OF PLAN DISTRIBUTIONS.—If  
11          a distribution to an individual would (without regard  
12          to paragraph (1)) be a qualified mortgage relief dis-  
13          tribution, a plan shall not be treated as violating any  
14          requirement of the Internal Revenue Code of 1986  
15          merely because the plan treats such distribution as  
16          a qualified mortgage relief distribution, unless the  
17          aggregate amount of such distributions from all  
18          plans maintained by the employer (and any member  
19          of any controlled group which includes the employer)  
20          to such individual exceeds \$25,000.

21          (3) CONTROLLED GROUP.—For purposes of  
22          paragraph (2), the term “controlled group” means  
23          any group treated as a single employer under sub-  
24          section (b), (c), (m), or (o) of section 414 of such  
25          Code.

1 (c) AMOUNT DISTRIBUTED MAY BE REPAID.—

2 (1) IN GENERAL.—Any individual who receives  
3 a qualified mortgage relief distribution may, at any  
4 time during the 5-year period beginning on the day  
5 after the date on which such distribution was re-  
6 ceived, make one or more contributions in an aggre-  
7 gate amount not to exceed the amount of such dis-  
8 tribution to an eligible retirement plan of which such  
9 individual is a beneficiary and to which a rollover  
10 contribution of such distribution could be made  
11 under section 402(c), 403(a)(4), 403(b)(8),  
12 408(d)(3), or 457(e)(16) of the Internal Revenue  
13 Code of 1986, as the case may be.

14 (2) TREATMENT OF REPAYMENTS OF DISTRIBUTU-  
15 TIONS FROM ELIGIBLE RETIREMENT PLANS OTHER  
16 THAN IRAS.—For purposes of such Code, if a con-  
17 tribution is made pursuant to paragraph (1) with re-  
18 spect to a qualified mortgage relief distribution from  
19 an eligible retirement plan other than an individual  
20 retirement plan, then the taxpayer shall, to the ex-  
21 tent of the amount of the contribution, be treated as  
22 having received the qualified mortgage relief dis-  
23 tribution in an eligible rollover distribution (as de-  
24 fined in section 402(c)(4) of such Code) and as hav-  
25 ing transferred the amount to the eligible retirement

1 plan in a direct trustee to trustee transfer within 60  
2 days of the distribution.

3 (3) TREATMENT OF REPAYMENTS FOR DIS-  
4 TRIBUTIONS FROM IRAS.—For purposes of such  
5 Code, if a contribution is made pursuant to para-  
6 graph (1) with respect to a qualified mortgage relief  
7 distribution from an individual retirement plan (as  
8 defined by section 7701(a)(37) of such Code), then,  
9 to the extent of the amount of the contribution, the  
10 qualified mortgage relief distribution shall be treated  
11 as a distribution described in section 408(d)(3) of  
12 such Code and as having been transferred to the eli-  
13 gible retirement plan in a direct trustee to trustee  
14 transfer within 60 days of the distribution.

15 (d) DEFINITIONS.—For purposes of this section—

16 (1) QUALIFIED MORTGAGE RELIEF DISTRIBUTION.—Except as provided in subsection (b), the  
17 term “qualified mortgage relief distribution” means  
18 any distribution from an eligible retirement plan  
19 made on or after the date of the enactment of this  
20 Act and before January 1, 2010, if—

22 (A) such distribution is made during any  
23 90-day period beginning on the date of any in-  
24 crease which occurs under the terms of the loan  
25 in the interest rate applicable to acquisition in-

1           debtedness (as defined in section 163(h)(3)(B)  
2           of the Internal Revenue Code of 1986, without  
3           regard to clause (ii) thereof) with respect to the  
4           principal residence of the taxpayer, and

5                   (B) the adjusted gross income (as defined  
6           in section 62 of the such Code) of the taxpayer  
7           for the taxable year of such distribution does  
8           not exceed \$114,000 (\$166,000 in the case of  
9           a joint return under section 6013 of such  
10          Code).

11          For purposes of subparagraph (A), any increase in  
12          interest rate which occurs after May 31, 2005, and  
13          before the date of the enactment of this Act shall be  
14          treated as occurring on such date of enactment.

15               (2) ELIGIBLE RETIREMENT PLAN.—The term  
16          “eligible retirement plan” shall have the meaning  
17          given such term by section 402(c)(8)(B) of such  
18          Code.

19               (3) PRINCIPAL RESIDENCE.—The term “prin-  
20          cipal residence” has the same meaning as when used  
21          in section 121 of such Code.

22               (e) INCOME INCLUSION SPREAD OVER 5 YEAR PE-  
23          RIOD FOR QUALIFIED MORTGAGE RELIEF DISTRIBUTI-  
24          ONS.—

1           (1) IN GENERAL.—In the case of any qualified  
2 mortgage relief distribution, unless the taxpayer  
3 elects not to have this subsection apply for any tax-  
4 able year, any amount required to be included in  
5 gross income for such taxable year shall be so in-  
6 cluded ratably over the 5-taxable year period begin-  
7 ning with such taxable year.

8           (2) SPECIAL RULE.—For purposes of para-  
9 graph (1), rules similar to the rules of subparagraph  
10 (E) of section 408A(d)(3) of the Internal Revenue  
11 Code of 1986 shall apply.

12 (f) SPECIAL RULES.—

13           (1) EXEMPTION OF DISTRIBUTIONS FROM  
14 TRUSTEE TO TRUSTEE TRANSFER AND WITH-  
15 HOLDING RULES.—For purposes of sections  
16 401(a)(31), 402(f), and 3405 of the Internal Rev-  
17 enue Code of 1986, qualified mortgage relief dis-  
18 tributions shall not be treated as eligible rollover dis-  
19 tributions.

20           (2) QUALIFIED MORTGAGE RELIEF DISTRIBUTION  
21 TIONS TREATED AS MEETING PLAN DISTRIBUTION  
22 REQUIREMENTS.—For purposes of such Code, a  
23 qualified mortgage relief distribution shall be treated  
24 as meeting the requirements of sections

1 401(k)(2)(B)(i), 403(b)(7)(A)(ii), 403(b)(11), and  
2 457(d)(1)(A) of such Code.

3 (g) PROVISIONS RELATING TO PLAN AMEND-  
4 MENTS.—

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

10 (2) AMENDMENTS TO WHICH SUBSECTION AP-  
11 PLIES.—

12 (A) IN GENERAL.—This subsection shall  
13 apply to any amendment to any plan or annuity  
14 contract which is made—

15 (i) pursuant to any amendment made  
16 by this section, or pursuant to any regula-  
17 tion issued by the Secretary of the Treas-  
18 ury or the Secretary of Labor under this  
19 section, and

20 (ii) on or before the last day of the  
21 first plan year beginning on or after Janu-  
22 ary 1, 2010, or such later date as the Sec-  
23 retary of the Treasury may prescribe.

24 In the case of a governmental plan (as defined  
25 in section 414(d) of the Internal Revenue Code

1 of 1986), clause (ii) shall be applied by sub-  
2 stituting the date which is 2 years after the  
3 date otherwise applied under clause (ii).

4 (B) CONDITIONS.—This subsection shall  
5 not apply to any amendment unless—

6 (i) during the period—

7 (I) beginning on the date the leg-  
8 islative or regulatory amendment de-  
9 scribed in subparagraph (A)(i) takes  
10 effect (or in the case of a plan or con-  
11 tract amendment not required by such  
12 legislative or regulatory amendment,  
13 the effective date specified by the  
14 plan), and

15 (II) ending on the date described  
16 in subparagraph (A)(ii) (or, if earlier,  
17 the date the plan or contract amend-  
18 ment is adopted),

19 the plan or contract is operated as if such  
20 plan or contract amendment were in effect;  
21 and

22 (ii) such plan or contract amendment  
23 applies retroactively for such period.

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