

108<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 1779

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IN THE SENATE OF THE UNITED STATES

APRIL 22, 2004

Received; read twice and referred to the Committee on Finance

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## AN ACT

To amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from retirement plans during the period that a military reservist or national guardsman is called to active duty for an extended period, 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,*

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Guardsmen and Re-

5 servists Financial Relief Act of 2004”.

6 **SEC. 2. PENALTY-FREE WITHDRAWALS FROM RETIREMENT**  
7                   **PLANS FOR INDIVIDUALS CALLED TO ACTIVE**  
8                   **DUTY FOR AT LEAST 179 DAYS.**

9       (a) IN GENERAL.—Paragraph (2) of section 72(t) of  
10 the Internal Revenue Code of 1986 (relating to 10-percent  
11 additional tax on early distributions from qualified retire-  
12 ment plans) is amended by adding at the end the following  
13 new subparagraph:

14                   “(G) DISTRIBUTIONS FROM RETIREMENT  
15                   PLANS TO INDIVIDUALS CALLED TO ACTIVE  
16                   DUTY.—

17                   “(i) IN GENERAL.—Any qualified re-  
18                   servist distribution.

19                   “(ii) AMOUNT DISTRIBUTED MAY BE  
20                   REPAID.—Any individual who receives a  
21                   qualified reservist distribution may, at any  
22                   time during the 2-year period beginning on  
23                   the day after the end of the active duty pe-  
24                   riod, make one or more contributions to an  
25                   individual retirement plan of such indi-

1           vidual in an aggregate amount not to ex-  
2           ceed the amount of such distribution. The  
3           dollar limitations otherwise applicable to  
4           contributions to individual retirement plans  
5           shall not apply to any contribution made  
6           pursuant to the preceding sentence. No de-  
7           duction shall be allowed for any contribu-  
8           tion pursuant to this clause.

9           “(iii) QUALIFIED RESERVIST DIS-  
10          TRIBUTION.—For purposes of this sub-  
11          paragraph, the term ‘qualified reservist  
12          distribution’ means any distribution to an  
13          individual if—

14                 “(I) such distribution is from an  
15                 individual retirement plan, or from  
16                 amounts attributable to employer con-  
17                 tributions made pursuant to elective  
18                 deferrals described in subparagraph  
19                 (A) or (C) of section 402(g)(3) or sec-  
20                 tion 501(c)(18)(D)(iii),

21                 “(II) such individual was (by rea-  
22                 son of being a member of a reserve  
23                 component (as defined in section 101  
24                 of title 37, United States Code)), or-  
25                 dered or called to active duty for a pe-

1           riod in excess of 179 days or for an  
2           indefinite period, and

3                   “(III) such distribution is made  
4           during the period beginning on the  
5           date of such order or call and ending  
6           at the close of the active duty period.

7                   “(iv) APPLICATION OF SUBPARA-  
8           GRAPH.—This subparagraph applies to in-  
9           dividuals ordered or called to active duty  
10          after September 11, 2001, and before Sep-  
11          tember 12, 2005. In no event shall the 2-  
12          year period referred to in clause (ii) end  
13          before the date which is 2-years after the  
14          date of the enactment of this subpara-  
15          graph.”.

16          (b) CONFORMING AMENDMENTS.—

17               (1) Section 401(k)(2)(B)(i) of such Code is  
18          amended by striking “or” at the end of subclause  
19          (III), by striking “and” at the end of subclause (IV)  
20          and inserting “or”, and by inserting after subclause  
21          (IV) the following new subclause:

22                   “(V) the date on which a period  
23          referred to in section  
24          72(t)(2)(G)(iii)(III) begins, and”.

1           (2) Section 403(b)(11) of such Code is amend-  
2           ed by striking “or” at the end of subparagraph (A),  
3           by striking the period at the end of subparagraph  
4           (B) and inserting “, or”, and by inserting after sub-  
5           paragraph (B) the following new subparagraph:

6                     “(C) for distributions to which section  
7                     72(t)(2)(G) applies.”.

8           (c) EFFECTIVE DATE.—The amendment made by  
9           this section shall apply to distributions after September  
10          11, 2001.

          Passed the House of Representatives April 21, 2004.

Attest:

                          JEFF TRANDAHL,

*Clerk.*