

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

# H. R. 5651

To amend the Internal Revenue Code of 1986 to provide an exemption to the employer health insurance mandate for small businesses which are experiencing hardship.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 2014

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

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## A BILL

To amend the Internal Revenue Code of 1986 to provide an exemption to the employer health insurance mandate for small businesses which are experiencing hardship.

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 “Small Business Hard-  
5 ship Relief Act”.

1 **SEC. 2. HARDSHIP EXEMPTION TO EMPLOYER HEALTH IN-**  
2 **SURANCE MANDATE FOR SMALL BUSINESSES.**

3 (a) IN GENERAL.—Section 4980H of the Internal  
4 Revenue Code of 1986 is amended by adding at the end  
5 the following new subsection:

6 “(e) HARDSHIP EXEMPTION FOR SMALL BUSI-  
7 NESSES.—

8 “(1) IN GENERAL.—Subsections (a) and (b)  
9 shall not apply to any small business for any month  
10 if such small business is experiencing a hardship  
11 with respect to the calendar year in which such  
12 month begins.

13 “(2) HARDSHIP.—A small business shall be  
14 treated for purposes of this subsection as experi-  
15 encing a hardship for any calendar year if such busi-  
16 ness demonstrates to the satisfaction of the Sec-  
17 retary that such business—

18 “(A) missed two or more consecutive loan  
19 payments during such year,

20 “(B) is a debtor in a title 11 case (as de-  
21 fined in section 108(d)(2)) the pendency of  
22 which includes any portion of such year,

23 “(C) received a notice from a utility during  
24 such year that such utility is preparing to stop  
25 providing services to such business by reason of  
26 nonpayment of amounts owed for utility service,

1           “(D) received a notice of eviction of fore-  
2           closure during such year,

3           “(E) experienced a fire, flood, other nat-  
4           ural or human-caused disaster that resulted in  
5           substantial damage to property of the business  
6           during such year, or

7           “(F) experiences such other hardship dur-  
8           ing such year as the Secretary may determine  
9           for purposes of this subsection.

10           “(3) LIMITATION TO 5 YEARS OF EXEMP-  
11           TIONS.—Paragraph (1) shall not apply to any small  
12           business for any calendar year if such paragraph has  
13           applied to such small business for any 5 previous  
14           calendar years.

15           “(4) SMALL BUSINESS.—For purposes of this  
16           subsection—

17           “(A) IN GENERAL.—The term ‘small busi-  
18           ness’ means, with respect to any calendar year,  
19           an employer who employed an average of not  
20           more than 100 full-time employees on business  
21           days during the preceding calendar year.

22           “(B) APPLICATION OF CERTAIN RULES  
23           FOR DETERMINING EMPLOYER SIZE; TREAT-  
24           MENT OF FULL-TIME EQUIVALENTS AS FULL-  
25           TIME EMPLOYEES.—Rules similar to the rules

1 of subparagraphs (C) and (E) of subsection  
2 (c)(2) shall apply for purposes of this sub-  
3 section.”.

4 (b) EFFECTIVE DATE.—The amendment made by  
5 subsection (a) shall apply to months beginning after the  
6 date of the enactment of this Act.

7 (c) HARDSHIP EXEMPTION NOT TO BE USED AS  
8 SOLE CRITERIA FOR AUDIT.—Notwithstanding any other  
9 provision of law, whether the hardship exemption provided  
10 under section 4980H of the Internal Revenue Code of  
11 1986 (as added by this section) applies with respect to  
12 a taxpayer shall not be taken into account by the Internal  
13 Revenue Service as the sole factor in determining whether  
14 to audit such taxpayer.

15 (d) TREASURY STUDY ON ADDITIONAL INDICATIONS  
16 OF BUSINESS HARDSHIP.—

17 (1) STUDY.—The Secretary of the Treasury  
18 shall conduct a study regarding the additional hard-  
19 ships which would be appropriate to add to the list  
20 of hardships in paragraph (2) of section 4980H(e)  
21 of the Internal Revenue Code of 1986 (as added by  
22 this section), consistent with the purposes of such  
23 section.

24 (2) DETERMINATION OF ADDITIONAL HARD-  
25 SHIPS.—Not later than 6 months after the date of

1 the enactment of this Act, the Secretary of the  
2 Treasury shall, with respect to any hardship which  
3 the Secretary determines should be added to such  
4 list of hardships, add such hardship to such list by  
5 making the determination described in subparagraph  
6 (F) of such section.

7 (3) REPORT.—Not later than 6 months after  
8 the date of the enactment of this Act, the Secretary  
9 of the Treasury shall provide a written report to  
10 Congress with respect to the study conducted under  
11 paragraph (1). Such report shall include a descrip-  
12 tion of each hardship considered for inclusion in  
13 such list of hardships, whether the Secretary made  
14 the determination to include such hardship in such  
15 list, and the reasons that such hardship was or was  
16 not so included, as the case may be.

17 (4) REFERENCES TO SECRETARY OF THE  
18 TREASURY.—Any reference in this subsection to the  
19 Secretary of the Treasury shall include a reference  
20 to any designee of such Secretary.

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