

117TH CONGRESS
1ST SESSION

H. R. 423

To provide relief for multiemployer and single employer pension plans, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 21, 2021

Mr. SCOTT of Virginia (for himself, Mr. NORCROSS, Ms. STEVENS, Mr. MORELLE, Ms. KAPTUR, Ms. JACKSON LEE, Mrs. MCBATH, Mr. BISHOP of Georgia, Ms. NORTON, Mr. DESAULNIER, Mr. MEEKS, Ms. SCHAKOWSKY, Ms. WILD, and Mr. SABLAN) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide relief for multiemployer and single employer
pension plans, 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 “Emergency Pension
5 Plan Relief Act of 2021”.

1 **TITLE I—RELIEF FOR MULTIEM-**
2 **PLOYER PENSION PLANS**

3 **SEC. 101. SPECIAL PARTITION RELIEF.**

4 (a) APPROPRIATION.—Section 4005 of the Employee
5 Retirement Income Security Act of 1974 (29 U.S.C. 1305)
6 is amended by adding at the end the following:

7 “(i)(1) An eighth fund shall be established for parti-
8 tion assistance to multiemployer pension plans, as pro-
9 vided under section 4233A, and to pay for necessary ad-
10 ministrative and operating expenses relating to such as-
11 sistance.

12 “(2) There is appropriated from the general fund
13 such amounts as necessary for the costs of providing parti-
14 tion assistance under section 4233A and necessary admin-
15 istrative and operating expenses. The eighth fund estab-
16 lished under this subsection shall be credited with such
17 amounts from time to time as the Secretary of the Treas-
18 ury determines appropriate, from the general fund of the
19 Treasury, and such amounts shall remain available until
20 expended.”.

21 (b) SPECIAL PARTITION AUTHORITY.—The Em-
22 ployee Retirement Income Security Act of 1974 (29
23 U.S.C. 1001 et seq.) is amended by inserting after section
24 4233 the following:

1 **“SEC. 4233A. SPECIAL PARTITION RELIEF.**

2 “(a) SPECIAL PARTITION AUTHORITY.—

3 “(1) IN GENERAL.—Upon the application of a
4 plan sponsor of an eligible multiemployer plan for
5 partition of the plan under this section, the corpora-
6 tion shall order a partition of the plan in accordance
7 with this section.

8 “(2) INAPPLICABILITY OF CERTAIN REPAYMENT
9 OBLIGATION.—A plan receiving partition assistance
10 pursuant to this section shall not be subject to re-
11 payment obligations under section 4261(b)(2).

12 “(b) ELIGIBLE PLANS.—

13 “(1) IN GENERAL.—For purposes of this sec-
14 tion, a multiemployer plan is an eligible multiem-
15 ployer plan if—

16 “(A) the plan is in critical and declining
17 status (within the meaning of section
18 305(b)(6)) in any plan year beginning in 2020
19 through 2022;

20 “(B) a suspension of benefits has been ap-
21 proved with respect to the plan under section
22 305(e)(9) as of the date of the enactment of
23 this section;

24 “(C) in any plan year beginning in 2020
25 through 2022, the plan is certified by the plan
26 actuary to be in critical status (within the

1 meaning of section 305(b)(2)), has a modified
2 funded percentage of less than 40 percent, and
3 has a ratio of active to inactive participants
4 which is less than 2 to 3; or

5 “(D) the plan is insolvent for purposes of
6 section 418E of the Internal Revenue Code of
7 1986 as of the date of enactment of this sec-
8 tion, if the plan became insolvent after Decem-
9 ber 16, 2014, and has not been terminated by
10 such date of enactment.

11 “(2) MODIFIED FUNDED PERCENTAGE.—For
12 purposes of paragraph (1)(C), the term ‘modified
13 funded percentage’ means the percentage equal to a
14 fraction the numerator of which is current value of
15 plan assets (as defined in section 3(26) of such Act)
16 and the denominator of which is current liabilities
17 (as defined in section 431(c)(6)(D) of such Code and
18 section 304(c)(6)(D) of such Act).

19 “(c) APPLICATIONS FOR SPECIAL PARTITION.—

20 “(1) GUIDANCE.—The corporation shall issue
21 guidance setting forth requirements for special parti-
22 tion applications under this section not later than
23 120 days after the date of the enactment of this sec-
24 tion. In such guidance, the corporation shall—

1 “(A) limit the materials required for a spe-
2 cial partition application to the minimum nec-
3 essary to make a determination on the applica-
4 tion; and

5 “(B) provide for an alternate application
6 for special partition under this section, which
7 may be used by a plan that has been approved
8 for a partition under section 4233 before the
9 date of enactment of this section.

10 “(2) TEMPORARY PRIORITY CONSIDERATION OF
11 APPLICATIONS.—

12 “(A) IN GENERAL.—The corporation may
13 specify in guidance under paragraph (1) that,
14 during the first 2 years following the date of
15 enactment of this section, special partition ap-
16 plications will be provided priority consider-
17 ation, if—

18 “(i) the plan is likely to become insol-
19 vent within 5 years of the date of enact-
20 ment of this section;

21 “(ii) the corporation projects a plan to
22 have a present value of financial assistance
23 payments under section 4261 that exceeds
24 \$1,000,000,000 if the special partition is
25 not ordered;

1 “(iii) the plan has implemented ben-
2 efit suspensions under section 305(e)(9) as
3 of the date of the enactment of this sec-
4 tion; or

5 “(iv) the corporation determines it ap-
6 propriate based on other circumstances.

7 “(B) NO EFFECT ON AMOUNT OF ASSIST-
8 ANCE.—A plan that is approved for special par-
9 tition assistance under this section shall not re-
10 ceive reduced special partition assistance on ac-
11 count of not receiving priority consideration
12 under subparagraph (A).

13 “(3) ACTUARIAL ASSUMPTIONS AND OTHER IN-
14 FORMATION.—The corporation shall accept assump-
15 tions incorporated in a multiemployer plan’s deter-
16 mination that it is in critical status or critical and
17 declining status (within the meaning of section
18 305(b)), or that the plan’s modified funded percent-
19 age is less than 40 percent, unless such assumptions
20 are clearly erroneous. The corporation may require
21 such other information as the corporation deter-
22 mines appropriate for making a determination of eli-
23 gibility and the amount of special partition assist-
24 ance necessary under this section.

1 “(4) APPLICATION DEADLINE.—Any application
2 by a plan for special partition assistance under this
3 section shall be submitted no later than December
4 31, 2024, and any revised application for special
5 partition assistance shall be submitted no later than
6 December 31, 2025.

7 “(5) NOTICE OF APPLICATION.—Not later than
8 120 days after the date of enactment of this section,
9 the corporation shall issue guidance requiring multi-
10 employer plans to notify participants and bene-
11 ficiaries that the plan has applied for partition
12 under this section, after the corporation has deter-
13 mined that the application is complete. Such notice
14 shall reference the special partition relief internet
15 website described in subsection (p).

16 “(d) DETERMINATIONS ON APPLICATIONS.—A plan’s
17 application for special partition under this section that is
18 timely filed in accordance with guidance issued under sub-
19 section (c)(1) shall be deemed approved and the corpora-
20 tion shall issue a special partition order unless the cor-
21 poration notifies the plan within 120 days of the filing
22 of the application that the application is incomplete or the
23 plan is not eligible under this section. Such notice shall
24 specify the reasons the plan is ineligible for a special parti-
25 tion or information needed to complete the application. If

1 a plan is denied partition under this subsection, the plan
2 may submit a revised application under this section. Any
3 revised application for special partition submitted by a
4 plan shall be deemed approved unless the corporation noti-
5 fies the plan within 120 days of the filing of the revised
6 application that the application is incomplete or the plan
7 is not eligible under this section. A special partition order
8 issued by the corporation shall be effective no later than
9 120 days after a plan's special partition application is ap-
10 proved by the corporation or deemed approved.

11 “(e) AMOUNT AND MANNER OF SPECIAL PARTITION
12 ASSISTANCE.—

13 “(1) IN GENERAL.—The liabilities of an eligible
14 multiemployer plan that the corporation assumes
15 pursuant to a special partition order under this sec-
16 tion shall be the amount necessary for the plan to
17 meet its funding goals described in subsection (g).

18 “(2) NO CAP.—Liabilities assumed by the cor-
19 poration pursuant to a special partition order under
20 this section shall not be capped by the guarantee
21 under section 4022A. The corporation shall have dis-
22 cretion on how liabilities of the plan are partitioned.

23 “(f) SUCCESSOR PLAN.—

1 “(1) IN GENERAL.—The plan created by a spe-
2 cial partition order under this section is a successor
3 plan to which section 4022A applies.

4 “(2) PLAN SPONSOR AND ADMINISTRATOR.—
5 The plan sponsor of an eligible multiemployer plan
6 prior to the special partition and the administrator
7 of such plan shall be the plan sponsor and the ad-
8 ministrator, respectively, of the plan created by the
9 partition.

10 “(g) FUNDING GOALS.—

11 “(1) IN GENERAL.—The funding goals of a
12 multiemployer plan eligible for partition under this
13 section are both of the following:

14 “(A) The plan will remain solvent over 30
15 years with no reduction in a participant’s or
16 beneficiary’s accrued benefit (except to the ex-
17 tent of a reduction in accordance with section
18 305(e)(8) adopted prior to the plan’s applica-
19 tion for partition under this section).

20 “(B) The funded percentage of the plan
21 (disregarding partitioned benefits) at the end of
22 the 30-year period is projected to be 80 percent.

23 “(2) BASIS.—The funding projections under
24 paragraph (1) shall be performed on a deterministic
25 basis.

1 “(h) RESTORATION OF BENEFIT SUSPENSIONS.—An
2 eligible multiemployer plan that is partitioned under this
3 section shall—

4 “(1) reinstate any benefits that were suspended
5 under section 305(e)(9) or section 4245(a), effective
6 as of the first month the special partition order is
7 effective, for participants or beneficiaries as of the
8 effective date of the partition; and

9 “(2) provide payments equal to the amount of
10 benefits previously suspended to any participants or
11 beneficiaries in pay status as of the effective date of
12 the special partition, payable in the form of a lump
13 sum within 3 months of such effective date or in
14 equal monthly installments over a period of 5 years,
15 with no adjustment for interest.

16 “(i) ADJUSTMENT OF SPECIAL PARTITION ASSIST-
17 ANCE.—

18 “(1) IN GENERAL.—Every 5 years, the corpora-
19 tion shall adjust the special partition assistance de-
20 scribed in subsection (e) as necessary for the eligible
21 multiemployer plan to satisfy the funding goals de-
22 scribed in subsection (g). If the 30 year period de-
23 scribed in subsection (g) has lapsed, in applying this
24 paragraph, 5 years shall be substituted for 30 years.

1 “(2) SUBMISSION OF INFORMATION.—An eligi-
2 ble multiemployer plan that is the subject of a spe-
3 cial partition order under subsection (a) shall submit
4 such information as the corporation may require to
5 determine the amount of the adjustment under para-
6 graph (1).

7 “(3) CESSATION OF ADJUSTMENTS.—Adjust-
8 ments under this subsection with respect to special
9 partition assistance for an eligible multiemployer
10 plan shall cease and the corporation shall perma-
11 nently assume liability for payment of any benefits
12 transferred to the successor plan (subject to sub-
13 section (l)) beginning with the first plan year that
14 the funded percentage of the eligible multiemployer
15 plan (disregarding partitioned benefits) is at least
16 80 percent and the plan’s projected funded percent-
17 age for each of the next 10 years is at least 80 per-
18 cent. Any accumulated funding deficiency of the
19 plan (within the meaning of section 304(a)) shall be
20 reduced to zero as of the first day of the plan year
21 for which partition assistance is permanent under
22 this paragraph.

23 “(j) CONDITIONS ON PLANS DURING PARTITION.—

24 “(1) IN GENERAL.—The corporation may im-
25 pose, by regulation, reasonable conditions on an eli-

1 gible multiemployer plan that is partitioned under
2 section (a) relating to increases in future accrual
3 rates and any retroactive benefit improvements, allo-
4 cation of plan assets, reductions in employer con-
5 tribution rates, diversion of contributions to, and al-
6 location of, expenses to other retirement plans, and
7 withdrawal liability.

8 “(2) LIMITATIONS.—The corporation shall not
9 impose conditions on an eligible multiemployer plan
10 as a condition of or following receipt of such parti-
11 tion assistance under this section relating to—

12 “(A) any reduction in plan benefits (in-
13 cluding benefits that may be adjusted pursuant
14 to section 305(e)(8));

15 “(B) plan governance, including selection
16 of, removal of, and terms of contracts with,
17 trustees, actuaries, investment managers, and
18 other service providers; or

19 “(C) any funding rules relating to the plan
20 that is partitioned under this section.

21 “(3) CONDITION.—An eligible multiemployer
22 plan that is partitioned under subsection (a) shall
23 continue to pay all premiums due under section
24 4007 for participants and beneficiaries in the plan
25 created by a special partition order until the plan

1 year beginning after a cessation of adjustments ap-
2 plies under subsection (i).

3 “(k) WITHDRAWAL LIABILITY.—An employer’s with-
4 drawal liability for purposes of this title shall be calculated
5 taking into account any plan liabilities that are partitioned
6 under subsection (a) until the plan year beginning after
7 the expiration of 15 calendar years from the effective date
8 of the partition.

9 “(l) CESSATION OF PARTITION ASSISTANCE.—If a
10 plan that receives partition assistance under this section
11 becomes insolvent for purposes of section 418E of the In-
12 ternal Revenue Code of 1986, the plan shall no longer be
13 eligible for assistance under this section and shall be eligi-
14 ble for assistance under section 4261.

15 “(m) REPORTING.—An eligible multiemployer plan
16 that receives partition assistance under this section shall
17 file with the corporation a report, including the following
18 information, in such manner (which may include electronic
19 filing requirements) and at such time as the corporation
20 requires:

21 “(1) The funded percentage (as defined in sec-
22 tion 305(j)(2)) as of the first day of such plan year,
23 and the underlying actuarial value of assets and li-
24 abilities taken into account in determining such per-
25 centage.

1 “(2) The market value of the assets of the plan
2 (determined as provided in paragraph (1)) as of the
3 last day of the plan year preceding such plan year.

4 “(3) The total value of all contributions made
5 by employers and employees during the plan year
6 preceding such plan year.

7 “(4) The total value of all benefits paid during
8 the plan year preceding such plan year.

9 “(5) Cash flow projections for such plan year
10 and the 9 succeeding plan years, and the assump-
11 tions used in making such projections.

12 “(6) Funding standard account projections for
13 such plan year and the 9 succeeding plan years, and
14 the assumptions relied upon in making such projec-
15 tions.

16 “(7) The total value of all investment gains or
17 losses during the plan year preceding such plan year.

18 “(8) Any significant reduction in the number of
19 active participants during the plan year preceding
20 such plan year, and the reason for such reduction.

21 “(9) A list of employers that withdrew from the
22 plan in the plan year preceding such plan year, the
23 payment schedule with respect to such withdrawal li-
24 ability, and the resulting reduction in contributions.

1 “(10) A list of employers that paid withdrawal
2 liability to the plan during the plan year preceding
3 such plan year and, for each employer, a total as-
4 sessment of the withdrawal liability paid, the annual
5 payment amount, and the number of years remain-
6 ing in the payment schedule with respect to such
7 withdrawal liability.

8 “(11) Any material changes to benefits, accrual
9 rates, or contribution rates during the plan year pre-
10 ceding such plan year, and whether such changes re-
11 late to the conditions of the partition assistance.

12 “(12) Details regarding any funding improve-
13 ment plan or rehabilitation plan and updates to such
14 plan.

15 “(13) The number of participants and bene-
16 ficiaries during the plan year preceding such plan
17 year who are active participants, the number of par-
18 ticipants and beneficiaries in pay status, and the
19 number of terminated vested participants and bene-
20 ficiaries.

21 “(14) The information contained on the most
22 recent annual funding notice submitted by the plan
23 under section 101(f).

24 “(15) The information contained on the most
25 recent annual return under section 6058 of the In-

1 ternal Revenue Code of 1986 and actuarial report
2 under section 6059 of such Code of the plan.

3 “(16) Copies of the plan document and amend-
4 ments, other retirement benefit or ancillary benefit
5 plans relating to the plan and contribution obliga-
6 tions under such plans, a breakdown of administra-
7 tive expenses of the plan, participant census data
8 and distribution of benefits, the most recent actu-
9 arial valuation report as of the plan year, financial
10 reports, and copies of the portions of collective bar-
11 gaining agreements relating to plan contributions,
12 funding coverage, or benefits, and such other infor-
13 mation as the corporation may reasonably require.

14 Any information disclosed by a plan to the corporation
15 that could identify individual employers shall be confiden-
16 tial and not subject to publication or disclosure.

17 “(n) REPORT TO CONGRESS.—

18 “(1) IN GENERAL.—Not later than 1 year after
19 the date of enactment of this section and annually
20 thereafter, the board of directors of the corporation
21 shall submit to the Committee on Health, Edu-
22 cation, Labor, and Pensions and the Committee on
23 Finance of the Senate and the Committee on Edu-
24 cation and Labor and the Committee on Ways and
25 Means of the House of Representatives a detailed re-

1 port on the implementation and administration of
2 this section. Such report shall include—

3 “(A) information on the name and number
4 of multiemployer plans that have applied for
5 partition assistance under this section;

6 “(B) the name and number of such plans
7 that have been approved for partition assistance
8 under this section and the name and number of
9 the plans that have not been approved for spe-
10 cial partition assistance;

11 “(C) a detailed rationale for any decision
12 by the corporation to not approve an applica-
13 tion for special partition assistance;

14 “(D) the amount of special partition as-
15 sistance provided to eligible multiemployer
16 plans (including amounts provided on an indi-
17 vidual plan basis and in the aggregate);

18 “(E) the name and number of the multi-
19 employer plans that restored benefit suspen-
20 sions and provided lump sum or monthly in-
21 stallment payments to participants or bene-
22 ficiaries;

23 “(F) the amount of benefits that were re-
24 stored and lump sum or monthly installment
25 payments that were paid (including amounts

1 provided on an individual plan basis and in the
2 aggregate);

3 “(G) the name and number of the plans
4 that received adjustments to partition assist-
5 ance under subsection (i);

6 “(H) a list of, and rationale for, each rea-
7 sonable condition imposed by the corporation on
8 plans approved for special partition assistance
9 under this section;

10 “(I) the contracts that have been awarded
11 by the corporation to implement or administer
12 this section;

13 “(J) the number, purpose, and dollar
14 amounts of the contracts that have been award-
15 ed to implement or administer the section;

16 “(K) a detailed summary of the reports re-
17 quired under subsection (m); and

18 “(L) a detailed summary of the feedback
19 received on the pension relief internet website
20 established under subsection (p).

21 “(2) PBGC CERTIFICATION.—The board of di-
22 rectors of the corporation shall include with the re-
23 port under paragraph (1) a certification and affir-
24 mation that the amount of special partition assist-
25 ance provided to each plan under this section is the

1 amount necessary to meet its funding goals under
2 subsection (g), including, if applicable, any adjust-
3 ment of special partition assistance as determined
4 under subsection (i).

5 “(3) CONFIDENTIALITY.—Congress may pub-
6 licize the reports received under paragraph (1) only
7 after redacting all sensitive or proprietary informa-
8 tion.

9 “(o) GAO REPORT.—Not later than 1 year after the
10 first partition application is approved by the corporation
11 under this section, and biennially thereafter, the Comp-
12 troller General of the United States shall submit to the
13 Committee on Health, Education, Labor, and Pensions
14 and the Committee on Finance of the Senate and the
15 Committee on Education and Labor and the Committee
16 on Ways and Means of the House of Representatives a
17 detailed report on the actions of the corporation to imple-
18 ment and administer this section, including an examina-
19 tion of the contracts awarded by such corporation to carry
20 out this section and an analysis of such corporation’s com-
21 pliance with subsections (e) and (g).

22 “(p) SPECIAL PARTITION RELIEF WEBSITE.—

23 “(1) ESTABLISHMENT.—Not later than 120
24 days after the date of enactment of this section, the
25 corporation shall establish and maintain a user-

1 friendly, public-facing internet website to foster
2 greater accountability and transparency in the im-
3 plementation and administration of this section.

4 “(2) PURPOSE.—The internet website estab-
5 lished and maintained under paragraph (1) shall be
6 a portal to key information relating to this section
7 for multiemployer plan administrators and trustees,
8 plan participants, beneficiaries, participating em-
9 ployers, other stakeholders, and the public.

10 “(3) CONTENT AND FUNCTION.—The internet
11 website established under paragraph (1) shall—

12 “(A) describe the nature and scope of the
13 special partition authority and assistance under
14 this section in a manner calculated to be under-
15 stood by the average plan participant;

16 “(B) include published guidance, regula-
17 tions, and all other relevant information on the
18 implementation and administration of this sec-
19 tion;

20 “(C) include, with respect to plan applica-
21 tions for special partition assistance—

22 “(i) a general description of the proc-
23 ess by which eligible plans can apply for
24 special partition assistance, information on

1 how and when the corporation will process
2 and consider plan applications;

3 “(ii) information on how the corpora-
4 tion will address any incomplete applica-
5 tions as specified in under this section;

6 “(iii) a list of the plans that have ap-
7 plied for special partition assistance and,
8 for each application, the date of submis-
9 sion of a completed application;

10 “(iv) the text of each plan’s completed
11 application for special partition assistance
12 with appropriate redactions of personal,
13 proprietary, or sensitive information;

14 “(v) the estimated date that a deci-
15 sion will be made by the corporation on
16 each application;

17 “(vi) the actual date when such deci-
18 sion is made;

19 “(vii) the corporation’s decision on
20 each application; and

21 “(viii) as applicable, a detailed ration-
22 ale for any decision not to approve a plan’s
23 application for special partition assistance;

1 “(D) provide detailed information on each
2 contract solicited and awarded to implement or
3 administer this section;

4 “(E) include reports, audits, and other rel-
5 evant oversight and accountability information
6 on this section, including the annual reports
7 submitted by the board of directors of the cor-
8 poration to Congress required under subsection
9 (n), the Office of the Inspector General audits,
10 correspondence, and publications, and the Gov-
11 ernment Accountability Office reports under
12 subsection (o);

13 “(F) provide a clear means for multiem-
14 ployer plan administrators, plan participants,
15 beneficiaries, other stakeholders, and the public
16 to contact the corporation and provide feedback
17 on the implementation and administration of
18 this section; and

19 “(G) be regularly updated to carry out the
20 purposes of this subsection.

21 “(q) OFFICE OF INSPECTOR GENERAL.—There is au-
22 thorized to be appropriated to the corporation’s Office of
23 Inspector General \$24,000,000 for fiscal year 2021, which
24 shall remain available through September 30, 2029, for
25 salaries and expenses necessary for conducting investiga-

1 tions and audits of the implementation and administration
2 of this section.

3 “(r) APPLICATION OF EXCISE TAX.—During the pe-
4 riod that a plan is subject to a partition order under this
5 section and prior to a cessation of adjustments pursuant
6 to subsection (i)(3), the plan shall not be subject to section
7 4971 of the Internal Revenue Code of 1986.”.

8 **SEC. 102. REPEAL OF BENEFIT SUSPENSIONS FOR MULTI-**
9 **EMPLOYER PLANS IN CRITICAL AND DECLIN-**
10 **ING STATUS.**

11 (a) AMENDMENT TO INTERNAL REVENUE CODE OF
12 1986.—Paragraph (9) of section 432(e) of the Internal
13 Revenue Code of 1986 is repealed.

14 (b) AMENDMENT TO EMPLOYEE RETIREMENT IN-
15 COME SECURITY ACT OF 1974.—Paragraph (9) of section
16 305(e) of the Employee Retirement Income Security Act
17 of 1974 (29 U.S.C. 1085(e)) is repealed.

18 (c) EFFECTIVE DATE.—The repeals made by this
19 section shall not apply to plans that have been approved
20 for a suspension of benefit under section 432(e)(9)(G) of
21 the Internal Revenue Code of 1986 and section
22 305(e)(9)(G) of the Employee Retirement Income Security
23 Act of 1974 (29 U.S.C. 1085(e)(9)(G)) before the date
24 of the enactment of this Act.

1 **SEC. 103. TEMPORARY DELAY OF DESIGNATION OF MULTI-**
2 **EMPLOYER PLANS AS IN ENDANGERED, CRIT-**
3 **ICAL, OR CRITICAL AND DECLINING STATUS.**

4 (a) IN GENERAL.—Notwithstanding the actuarial
5 certification under section 305(b)(3) of the Employee Re-
6 tirement Income Security Act of 1974 and section
7 432(b)(3) of the Internal Revenue Code of 1986, if a plan
8 sponsor of a multiemployer plan elects the application of
9 this section, then, for purposes of section 305 of such Act
10 and section 432 of such Code—

11 (1) the status of the plan for its first plan year
12 beginning during the period beginning on March 1,
13 2020, and ending on February 28, 2021, or the next
14 succeeding plan year (as designated by the plan
15 sponsor in such election), shall be the same as the
16 status of such plan under such sections for the plan
17 year preceding such designated plan year, and

18 (2) in the case of a plan which was in endan-
19 gered or critical status for the plan year preceding
20 the designated plan year described in paragraph (1),
21 the plan shall not be required to update its plan or
22 schedules under section 305(c)(6) of such Act and
23 section 432(c)(6) of such Code, or section
24 305(e)(3)(B) of such Act and section 432(e)(3)(B)
25 of such Code, whichever is applicable, until the plan

1 year following the designated plan year described in
2 paragraph (1).

3 If section 305 of the Employee Retirement Income Secu-
4 rity Act of 1974 and section 432 of the Internal Revenue
5 Code of 1986 did not apply to the plan year preceding
6 the designated plan year described in paragraph (1), the
7 plan actuary shall make a certification of the status of
8 the plan under section 305(b)(3) of such Act and section
9 432(b)(3) of such Code for the preceding plan year in the
10 same manner as if such sections had applied to such pre-
11 ceding plan year.

12 (b) EXCEPTION FOR PLANS BECOMING CRITICAL
13 DURING ELECTION.—If—

14 (1) an election was made under subsection (a)
15 with respect to a multiemployer plan, and

16 (2) such plan has, without regard to such elec-
17 tion, been certified by the plan actuary under section
18 305(b)(3) of the Employee Retirement Income Secu-
19 rity Act of 1974 and section 432(b)(3) of the Inter-
20 nal Revenue Code of 1986 to be in critical status for
21 the designated plan year described in subsection
22 (a)(1), then such plan shall be treated as a plan in
23 critical status for such plan year for purposes of ap-
24 plying section 4971(g)(1)(A) of such Code, section
25 302(b)(3) of such Act (without regard to the second

1 sentence thereof), and section 412(b)(3) of such
2 Code (without regard to the second sentence there-
3 of).

4 (c) ELECTION AND NOTICE.—

5 (1) ELECTION.—An election under subsection
6 (a)—

7 (A) shall be made at such time and in such
8 manner as the Secretary of the Treasury or the
9 Secretary's delegate may prescribe and, once
10 made, may be revoked only with the consent of
11 the Secretary, and

12 (B) if made—

13 (i) before the date the annual certifi-
14 cation is submitted to the Secretary or the
15 Secretary's delegate under section
16 305(b)(3) of such Act and section
17 432(b)(3) of such Code, shall be included
18 with such annual certification, and

19 (ii) after such date, shall be submitted
20 to the Secretary or the Secretary's delegate
21 not later than 30 days after the date of the
22 election.

23 (2) NOTICE TO PARTICIPANTS.—

24 (A) IN GENERAL.—Notwithstanding sec-
25 tion 305(b)(3)(D) of the Employee Retirement

1 Income Security Act of 1974 and section
2 432(b)(3)(D) of the Internal Revenue Code of
3 1986, if the plan is neither in endangered nor
4 critical status by reason of an election made
5 under subsection (a)—

6 (i) the plan sponsor of a multiem-
7 ployer plan shall not be required to provide
8 notice under such sections, and

9 (ii) the plan sponsor shall provide to
10 the participants and beneficiaries, the bar-
11 gaining parties, the Pension Benefit Guar-
12 anty Corporation, and the Secretary of
13 Labor a notice of the election under sub-
14 section (a) and such other information as
15 the Secretary of the Treasury (in consulta-
16 tion with the Secretary of Labor) may re-
17 quire—

18 (I) if the election is made before
19 the date the annual certification is
20 submitted to the Secretary or the Sec-
21 retary's delegate under section
22 305(b)(3) of such Act and section
23 432(b)(3) of such Code, not later than
24 30 days after the date of the certifi-
25 cation, and

1 (II) if the election is made after
2 such date, not later than 30 days
3 after the date of the election.

4 (B) NOTICE OF ENDANGERED STATUS.—
5 Notwithstanding section 305(b)(3)(D) of such
6 Act and section 432(b)(3)(D) of such Code, if
7 the plan is certified to be in critical status for
8 any plan year but is in endangered status by
9 reason of an election made under subsection
10 (a), the notice provided under such sections
11 shall be the notice which would have been pro-
12 vided if the plan had been certified to be in en-
13 dangered status.

14 **SEC. 104. TEMPORARY EXTENSION OF THE FUNDING IM-**
15 **PROVEMENT AND REHABILITATION PERIODS**
16 **FOR MULTIEMPLOYER PENSION PLANS IN**
17 **CRITICAL AND ENDANGERED STATUS FOR**
18 **2020 OR 2021.**

19 (a) IN GENERAL.—If the plan sponsor of a multiem-
20 ployer plan which is in endangered or critical status for
21 a plan year beginning in 2020 or 2021 (determined after
22 application of section 103) elects the application of this
23 section, then, for purposes of section 305 of the Employee
24 Retirement Income Security Act of 1974 and section 432
25 of the Internal Revenue Code of 1986—

1 (1) except as provided in paragraph (2), the
2 plan's funding improvement period or rehabilitation
3 period, whichever is applicable, shall be 15 years
4 rather than 10 years, and

5 (2) in the case of a plan in seriously endan-
6 gered status, the plan's funding improvement period
7 shall be 20 years rather than 15 years.

8 (b) DEFINITIONS AND SPECIAL RULES.—For pur-
9 poses of this section—

10 (1) ELECTION.—An election under this section
11 shall be made at such time, and in such manner and
12 form, as (in consultation with the Secretary of
13 Labor) the Secretary of the Treasury or the Sec-
14 retary's delegate may prescribe.

15 (2) DEFINITIONS.—Any term which is used in
16 this section which is also used in section 305 of the
17 Employee Retirement Income Security Act of 1974
18 and section 432 of the Internal Revenue Code of
19 1986 shall have the same meaning as when used in
20 such sections.

21 (c) EFFECTIVE DATE.—This section shall apply to
22 plan years beginning after December 31, 2019.

23 **SEC. 105. ADJUSTMENTS TO FUNDING STANDARD ACCOUNT**
24 **RULES.**

25 (a) ADJUSTMENTS.—

1 (1) AMENDMENT TO EMPLOYEE RETIREMENT
2 INCOME SECURITY ACT OF 1974.—Section 304(b)(8)
3 of the Employee Retirement Income Security Act of
4 1974 (29 U.S.C. 1084(b)(8)) is amended by adding
5 at the end the following new subparagraph:

6 “(F) RELIEF FOR 2020 AND 2021.—A mul-
7 tiemployer plan with respect to which the sol-
8 vency test under subparagraph (C) is met as of
9 February 29, 2020, may elect to apply this
10 paragraph (without regard to whether such plan
11 previously elected the application of this para-
12 graph) by—

13 “(i) substituting ‘February 29, 2020’
14 for ‘August 31, 2008’ each place it appears
15 in subparagraphs (A)(i), (B)(i)(I), and
16 (B)(i)(II);

17 “(ii) inserting ‘and other losses re-
18 lated to virus SARS-CoV-2 or coronavirus
19 disease 2019 (COVID-19) (including expe-
20 rience losses related to reductions in con-
21 tributions, reductions in employment, and
22 deviations from anticipated retirement
23 rates), as determined by the plan sponsor,’
24 following ‘net investment losses’ where it
25 appears in subparagraph (A)(i); and

1 “(iii) substituting ‘If this subpara-
2 graph or subparagraph (A) apply’ for ‘If
3 this subparagraph and subparagraph (A)
4 both apply’ where it appears in subpara-
5 graph (B)(iii).

6 The preceding sentence shall not apply to a
7 plan with respect to which a partition order is
8 in effect under section 4233A.”.

9 (2) AMENDMENT TO INTERNAL REVENUE CODE
10 OF 1986.—Section 431(b)(8) of the Internal Revenue
11 Code of 1986 is amended by adding at the end the
12 following new subparagraph:

13 “(F) RELIEF FOR 2020 AND 2021.—A mul-
14 tiemployer plan with respect to which the sol-
15 vency test under subparagraph (C) is met as of
16 February 29, 2020, may elect to apply this
17 paragraph (without regard to whether such plan
18 previously elected the application of this para-
19 graph) by—

20 “(i) substituting ‘February 29, 2020’
21 for ‘August 31, 2008’ each place it appears
22 in subparagraphs (A)(i), (B)(i)(I), and
23 (B)(i)(II),

24 “(ii) inserting ‘and other losses re-
25 lated to virus SARS-CoV-2 or coronavirus

1 disease 2019 (COVID–19) (including expe-
2 rience losses related to reductions in con-
3 tributions, reductions in employment, and
4 deviations from anticipated retirement
5 rates), as determined by the plan sponsor,
6 following ‘net investment losses’ where it
7 appears in subparagraph (A)(i), and

8 “(iii) substituting ‘If this subpara-
9 graph or subparagraph (A) apply’ for ‘If
10 this subparagraph and subparagraph (A)
11 both apply’ where it appears in subpara-
12 graph (B)(iii).

13 The preceding sentence shall not apply to a
14 plan with respect to which a partition order is
15 in effect under section 4233A of the Employee
16 Retirement Income Security Act of 1974.”.

17 (b) EFFECTIVE DATES.—

18 (1) IN GENERAL.—The amendments made by
19 this section shall take effect as of the first day of
20 the first plan year ending on or after February 29,
21 2020, except that any election a plan makes pursu-
22 ant to this section that affects the plan’s funding
23 standard account for the first plan year beginning
24 after February 29, 2020, shall be disregarded for
25 purposes of applying the provisions of section 305 of

1 the Employee Retirement Income Security Act of
2 1974 and section 432 of the Internal Revenue Code
3 of 1986 to such plan year.

4 (2) RESTRICTIONS ON BENEFIT INCREASES.—
5 Notwithstanding paragraph (1), the restrictions on
6 plan amendments increasing benefits in sections
7 304(b)(8)(D) of such Act and 431(b)(8)(D) of such
8 Code, as applied by the amendments made by this
9 section, shall take effect on the date of enactment of
10 this Act.

11 **SEC. 106. PBGC GUARANTEE FOR PARTICIPANTS IN MULTI-**
12 **EMPLOYER PLANS.**

13 Section 4022A(c)(1) of the Employee Retirement In-
14 come Security Act of 1974 (29 U.S.C. 1322a(c)(1)) is
15 amended by striking subparagraphs (A) and (B) and in-
16 serting the following:

17 “(A) 100 percent of the accrual rate up to
18 \$15, plus 75 percent of the lesser of—

19 “(i) \$70; or

20 “(ii) the accrual rate, if any, in excess
21 of \$15; and

22 “(B) the number of the participant’s years
23 of credited service.

24 For each calendar year after the first full calendar
25 year following the date of the enactment of the

1 Emergency Pension Plan Relief Act of 2021, the ac-
2 crual rates in subparagraph (A) shall increase by the
3 national average wage index (as defined in section
4 209(k)(1) of the Social Security Act). For purposes
5 of this subsection, the rates applicable for deter-
6 mining the guaranteed benefits of the participants of
7 any plan shall be the rates in effect for the calendar
8 year in which the plan becomes insolvent under sec-
9 tion 4245 or the calendar year in which the plan is
10 terminated, if earlier.”.

11 **TITLE II—RELIEF FOR SINGLE**
12 **EMPLOYER PENSION PLANS**

13 **SEC. 201. EXTENDED AMORTIZATION FOR SINGLE EM-**
14 **PLOYER PLANS.**

15 (a) 15-YEAR AMORTIZATION UNDER THE INTERNAL
16 REVENUE CODE OF 1986.—Section 430(c) of the Internal
17 Revenue Code of 1986 is amended by adding at the end
18 the following new paragraph:

19 “(8) 15-YEAR AMORTIZATION.—With respect to
20 plan years beginning after December 31, 2019—

21 “(A) the shortfall amortization bases for
22 all plan years preceding the first plan year be-
23 ginning after December 31, 2019 (and all
24 shortfall amortization installments determined

1 with respect to such bases), shall be reduced to
2 zero, and

3 “(B) subparagraphs (A) and (B) of para-
4 graph (2) shall each be applied by substituting
5 ‘15-plan-year period’ for ‘7-plan-year period’.”.

6 (b) 15-YEAR AMORTIZATION UNDER THE EMPLOYEE
7 RETIREMENT INCOME SECURITY ACT OF 1974.—Section
8 303(c) of the Employee Retirement Income Security Act
9 of 1974 (29 U.S.C. 1083(c)) is amended by adding at the
10 end the following new paragraph:

11 “(8) 15-YEAR AMORTIZATION.—With respect to
12 plan years beginning after December 31, 2019—

13 “(A) the shortfall amortization bases for
14 all plan years preceding the first plan year be-
15 ginning after December 31, 2019 (and all
16 shortfall amortization installments determined
17 with respect to such bases), shall be reduced to
18 zero, and

19 “(B) subparagraphs (A) and (B) of para-
20 graph (2) shall each be applied by substituting
21 ‘15-plan-year period’ for ‘7-plan-year period’.”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to plan years beginning after De-
24 cember 31, 2019.

1 **SEC. 202. EXTENSION OF PENSION FUNDING STABILIZA-**
 2 **TION PERCENTAGES FOR SINGLE EMPLOYER**
 3 **PLANS.**

4 (a) AMENDMENTS TO INTERNAL REVENUE CODE OF
 5 1986.—

6 (1) IN GENERAL.—The table contained in sub-
 7 clause (II) of section 430(h)(2)(C)(iv) of the Inter-
 8 nal Revenue Code of 1986 is amended to read as fol-
 9 lows:

“If the calendar year is:	The applica- ble min- imum per- centage is:	The applica- ble max- imum per- centage is:
Any year in the period starting in 2012 and end- ing in 2019	90%	110%
Any year in the period starting in 2020 and end- ing in 2025	95%	105%
2026	90%	110%
2027	85%	115%
2028	80%	120%
2029	75%	125%
After 2029	70%	130%.”.

10 (2) FLOOR ON 25-YEAR AVERAGES.—Subclause
 11 (I) of section 430(h)(2)(C)(iv) of such Code is
 12 amended by adding at the end the following: “Not-
 13 withstanding anything in this subclause, if the aver-
 14 age of the first, second, or third segment rate for
 15 any 25-year period is less than 5 percent, such aver-
 16 age shall be deemed to be 5 percent.”.

17 (b) AMENDMENTS TO EMPLOYEE RETIREMENT IN-
 18 COME SECURITY ACT OF 1974.—

1 (1) IN GENERAL.—The table contained in sub-
 2 clause (II) of section 303(h)(2)(C)(iv) of the Em-
 3 ployee Retirement Income Security Act of 1974 (29
 4 U.S.C. 1083(h)(2)(C)(iv)(II)) is amended to read as
 5 follows:

“If the calendar year is:	The applica- ble min- imum per- centage is:	The applica- ble max- imum per- centage is:
Any year in the period starting in 2012 and end- ing in 2019	90%	110%
Any year in the period starting in 2020 and end- ing in 2025	95%	105%
2026	90%	110%
2027	85%	115%
2028	80%	120%
2029	75%	125%
After 2029	70%	130%.”.

6 (2) CONFORMING AMENDMENTS.—

7 (A) IN GENERAL.—Section 101(f)(2)(D) of
 8 such Act (29 U.S.C. 1021(f)(2)(D)) is amend-
 9 ed—

10 (i) in clause (i) by striking “and the
 11 Bipartisan Budget Act of 2015” both
 12 places it appears and inserting “, the Bi-
 13 partisan Budget Act of 2015, and the
 14 Emergency Pension Plan Relief Act of
 15 2021”, and

16 (ii) in clause (ii) by striking “2023”
 17 and inserting “2029”.

1 (B) STATEMENTS.—The Secretary of
2 Labor shall modify the statements required
3 under subclauses (I) and (II) of section
4 101(f)(2)(D)(i) of such Act to conform to the
5 amendments made by this section.

6 (3) FLOOR ON 25-YEAR AVERAGES.—Subclause
7 (I) of section 303(h)(2)(C)(iv) of such Act (29
8 U.S.C. 1083(h)(2)(C)(iv)(II)) is amended by adding
9 at the end the following: “Notwithstanding anything
10 in this subclause, if the average of the first, second,
11 or third segment rate for any 25-year period is less
12 than 5 percent, such average shall be deemed to be
13 5 percent.”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply with respect to plan years begin-
16 ning after December 31, 2019.

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