# <sup>111TH CONGRESS</sup> 2D SESSION **H. R. 4608**

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to allow multiemployer plans to amortize losses from certain fraudulent investment schemes over a 40-year period.

### IN THE HOUSE OF REPRESENTATIVES

#### February 4, 2010

Mr. MAFFEI 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 amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to allow multiemployer plans to amortize losses from certain fraudulent investment schemes over a 40-year period.
  - 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. AMORTIZATION OF LOSSES FROM QUALIFIED**

- 4 FRAUDULENT INVESTMENT SCHEMES.
- 5 (a) AMENDMENT TO ERISA.—Section 304(b) of the
  6 Employee Retirement Income Security Act of 1974 is

1 amended by adding at the end the following new para-2 graph:

3 "(8) AMORTIZATION OF LOSSES FROM QUALI4 FIED FRAUDULENT INVESTMENT SCHEMES.—

"(A) PLAN SPONSOR ELECTION.—Notwith-5 6 standing any other provision of this subsection, 7 the plan sponsor of a multiemployer plan may 8 elect to charge the total amount of the net in-9 vestment losses (if any) which are incurred in 10 either or both of the first two plan years ending 11 after August 31, 2008, and which are attrib-12 utable to losses from qualified fraudulent in-13 vestment schemes as an item separate from 14 other experience losses, to be amortized in equal 15 annual installments (until fully amortized) over 16 a period of 40 plan years.

17 "(B) LOSSES FROM QUALIFIED FRAUDU-18 LENT INVESTMENT SCHEMES.—For purposes of 19 this paragraph, the determination as to whether 20 losses are from qualified fraudulent investment 21 schemes shall be determined under rules pre-22 scribed by the Secretary that are substantially 23 similar to the rules prescribed by the Secretary 24 for purposes of determining whether a loss from 25 such an arrangement is a theft loss for pur-

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1	poses of section 165 of the Internal Revenue
2	Code of 1986.".
3	(b) Amendment to Internal Revenue Code of
4	1986.—Section 431(b) of the Internal Revenue Code of
5	1986 is amended by adding at the end the following new
6	paragraph:
7	"(8) Amortization of losses from quali-
8	FIED FRAUDULENT INVESTMENT SCHEMES.—
9	"(A) PLAN SPONSOR ELECTION.—Notwith-
10	standing any other provision of this subsection,
11	the plan sponsor of a multiemployer plan may
12	elect to charge the total amount of the net in-
13	vestment losses (if any) which are incurred in
14	either or both of the first two plan years ending
15	after August 31, 2008, and which are attrib-
16	utable to losses from qualified fraudulent in-
17	vestment schemes as an item separate from
18	other experience losses, to be amortized in equal
19	annual installments (until fully amortized) over
20	a period of 40 plan years.
21	"(B) Losses from qualified fraudu-
22	LENT INVESTMENT SCHEMES.—For purposes of
23	this paragraph, the determination as to whether
24	losses are from qualified fraudulent investment
25	schemes shall be determined under rules pre-

scribed by the Secretary that are substantially
 similar to the rules prescribed by the Secretary
 for purposes of determining whether a loss from
 such an arrangement is a theft loss for pur poses of section 165 of the Internal Revenue
 Code of 1986.".

7 (c) EFFECTIVE DATE.—The amendments made by 8 this section shall take effect as of the first day of the first 9 plan year beginning after August 31, 2008, except that 10 any election a plan makes pursuant to this section that 11 affects the plan's funding standard account for the first 12 plan year beginning after August 31, 2008, shall be dis-13 regarded for purposes of applying the provisions of section 14 305 of the Employee Retirement Income Security Act of 15 1974 and section 432 of the Internal Revenue Code of 1986 to such plan year. 16

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