

110TH CONGRESS  
1ST SESSION

# H. R. 3868

To provide an orderly transition to new requirements, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 17, 2007

Mr. POMEROY (for himself and Mr. CANTOR) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and Labor, 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

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## A BILL

To provide an orderly transition to new requirements, 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. DELAY OF EFFECTIVE DATES FOR SINGLE-EM-**  
4 **PLOYER PLAN FUNDING RULES.**

5 (a) IN GENERAL.—

6 (1) DELAYED EFFECTIVE DATES.—The sections  
7 of the Pension Protection Act of 2006, the Internal  
8 Revenue Code of 1986, and the Employee Retire-

1       ment Income Security Act of 1974 specified in para-  
2       graph (3) are amended—

3               (A) by striking “2007” and inserting, “the  
4       applicable funding pre-effective date year (as  
5       defined in section 1305 of the Pension Protec-  
6       tion Act of 2006)”,

7               (B) by striking “2008” and inserting “the  
8       applicable funding effective date year (as de-  
9       fined in section 1305 of the Pension Protection  
10       Act of 2006)”,

11              (C) by striking “2009” and inserting “the  
12       calendar year after the applicable funding effec-  
13       tive date year (as defined in section 1305 of the  
14       Pension Protection Act of 2006)”,

15              (D) by striking “2010” and inserting “the  
16       calendar year that is two years after the appli-  
17       cable effective date year (as defined in section  
18       1305 of the Pension Protection Act of 2006)”,

19              (E) by striking “2011” and inserting “the  
20       calendar year that is three years after the appli-  
21       cable funding effective date year (as defined in  
22       section 1305 of the Pension Protection Act of  
23       2006)”, and

24              (F) by striking “2012” and inserting “the  
25       calendar year that is four years after the appli-

1 cable funding effective year (as defined in sec-  
2 tion 1305 of the Pension Protection Act of  
3 2006)”.  
4

5 (2) APPLICABLE FUNDING EFFECTIVE DATE  
6 YEARS.—Title XIII of the Pension Protection Act of  
7 2006 is amended by adding at the end the following  
8 new section:

9 **“SEC. 1305. APPLICABLE FUNDING EFFECTIVE DATES.**

10 **“(a) IN GENERAL.—**

11 **“(1) For purposes of this Act, except as other-**  
12 **wise provided in this section, the term ‘applicable**  
13 **funding pre-effective date year’ means 2008.**

14 **“(2) For purposes of this Act, the term ‘appli-**  
15 **cable funding effective date year’ means the calendar**  
16 **year immediately following the applicable funding**  
17 **pre-effective date year.**

18 **“(b) EXCEPTION.—Subsection (a)(1) shall apply only**  
19 **if final regulations are issued by June 30, 2008, with re-**  
20 **spect to sections 206(g), 303(f), 303(g)(3), 303(h)(2),**  
21 **303(h)(3), 303(i)(4)(A)(ii), and 303(j)(3)(A) of the Em-**  
22 **ployee Retirement Income Security Act of 1974 and sec-**  
23 **tions 430(f), 430(g)(3), 430(h)(2), 430(h)(3),**  
24 **430(i)(4)(A)(ii), 430(j)(3)(A), and 436 of the Internal**  
25 **Revenue Code of 1986. If final regulations under all such**  
**sections are not issued by June 30, 2008, for purposes**

1 of this Act, the term ‘applicable funding pre-effective date  
2 year’ shall mean the first calendar year with respect to  
3 which all such final regulations are issued by June 30 of  
4 such year.

5 “(c) EFFECTIVE DATE.—This section shall take ef-  
6 fect on the date of the enactment of this Act.”.

7 (3) APPLICABLE SECTIONS.—

8 (A) PENSION PROTECTION ACT OF 2006.—

9 The amendments made in paragraph (1) shall  
10 apply to the following sections of the Pension  
11 Protection Act of 2006: 101(d), 102(c), 103(c),  
12 104(b), 105(b), 106(b), 107(e), 111(b), 112(b),  
13 113(b), 115(a), 115(b)(3), 115(e)(2), 302(c),  
14 401(a)(2), 402(b)(1), 505(c), and 802(b).

15 (B) INTERNAL REVENUE CODE OF 1986.—

16 The amendments made in paragraph (1) shall  
17 apply to the following sections of the Internal  
18 Revenue Code of 1986: 417(e)(3), 430(c)(5),  
19 430(f)(1)(B)(ii)(I), 430(f)(3)(C),  
20 430(f)(6)(C)(i), 430(f)(7)(C)(i), 430(h)(2)(G),  
21 430(i)(4)(B), 430(i)(5)(C), 436(j), and 436(k).

22 (C) EMPLOYEE RETIREMENT INCOME SE-  
23 CURITY ACT OF 1974.—The amendments made  
24 in paragraph (1) shall apply to the following  
25 sections of the Employee Retirement Income

1 Security Act of 1974: 205(g)(3), 206(g)(9),  
2 206(g)(10), 303(c)(5), 303(f)(1)(B)(ii)(I),  
3 303(f)(3)(C), 303(f)(6)(C)(i), 303(f)(7)(C)(i),  
4 303(h)(2)(G), 303(i)(4)(B), 303(i)(5)(C), and  
5 4041(b)(5)(C)(i).

6 (b) EXTENSION OF REPLACEMENT OF 30-YEAR  
7 TREASURY RATES.—

8 (1) AMENDMENTS OF ERISA.—

9 (A) DETERMINATION OF RANGE.—Sub-  
10 clause (II) of section 302(b)(5)(B)(ii) of the  
11 Employee Retirement Income Security Act of  
12 1974 is amended—

13 (i) by striking “January 1, 2008” and  
14 inserting “January 1 of the applicable  
15 funding effective date year (as defined in  
16 section 1305 of the Pension Protection Act  
17 of 2006)”, and

18 (ii) in the heading, by striking “FOR  
19 YEARS 2004, 2005, 2006, AND 2007”.

20 (B) DETERMINATION OF CURRENT LIABIL-  
21 ITY.—Subclause (IV) of section 302(d)(7)(C)(i)  
22 of such Act is amended—

23 (i) by striking “in 2004, 2005, 2006,  
24 or 2007” and inserting “after 2003 and  
25 before the applicable funding effective date

1 year (as defined in section 1305 of the  
2 Pension Protection Act of 2006)”, and

3 (ii) in the heading, by striking “FOR  
4 YEARS 2004, 2005, 2006, AND 2007”.

5 (C) PBGC PREMIUM RATE.—Subclause  
6 (V) of section 4006(a)(3)(E)(iii) of such Act is  
7 amended by striking “January 1, 2008” and in-  
8 serting “January 1 of the applicable funding ef-  
9 fective date year (as defined in section 1305 of  
10 the Pension Protection Act of 2006)”.

11 (2) AMENDMENTS OF INTERNAL REVENUE  
12 CODE.—

13 (A) DETERMINATION OF RANGE.—Sub-  
14 clause (II) of section 412(b)(5)(B)(ii) of the In-  
15 ternal Revenue Code of 1986 is amended—

16 (i) by striking “January 1, 2008” and  
17 inserting “January 1 of the applicable  
18 funding effective date year (as defined in  
19 section 1305 of the Pension Protection Act  
20 of 2006)”, and

21 (ii) in the heading, by striking “FOR  
22 YEARS 2004, 2005, 2006, AND 2007”.

23 (B) DETERMINATION OF CURRENT LIABIL-  
24 ITY.—Subclause (IV) of section 412(1)(7)(C)(i)  
25 of such Code is amended—

1 (i) by striking “in 2004, 2005, 2006,  
2 and 2007” and inserting “after 2003 and  
3 before the applicable funding effective date  
4 year (as defined in section 1305 of the  
5 Pension Protection Act of 2006)”, and

6 (ii) in the heading, by striking “FOR  
7 YEARS 2004, 2005, 2006, AND 2007”.

8 (3) PLAN AMENDMENTS.—Clause (ii) of section  
9 101(c)(2)(A) of the Pension Funding Equity Act of  
10 2004 is amended by striking “January 1, 2008” and  
11 inserting “January 1 of the applicable funding effec-  
12 tive date year (as defined in section 1305 of the  
13 Pension Protection Act of 2006)”.

14 (c) CONFORMING AMENDMENTS REGARDING TRAN-  
15 SITION RULE.—

16 (1) IN GENERAL.—Paragraph (1) of section  
17 115(d) of the Pension Protection Act of 2006 is  
18 amended to read as follows:

19 “(1) IN GENERAL.—Section 769(c)(3) of the  
20 Retirement Protection Act of 1994, as added by sec-  
21 tion 201 of the Pension Funding Equity Act of  
22 2004, is amended by striking ‘in 2004 and 2005’  
23 and inserting ‘after 2003 and before the applicable  
24 funding effective date year (as defined in section  
25 1305 of the Pension Protection Act of 2006)’.”.

1           (2) HEADING.—The heading of subsection (d)  
2 of section 115 of such Act is amended by striking  
3 “FOR 2006 AND 2007”.

4           (d) CONFORMING AMENDMENTS REGARDING FUND-  
5 ING NOTICE.—

6           (1) IN GENERAL.—Paragraph (1) of section  
7 501(d) of the Pension Protection Act of 2006 is  
8 amended to read as follows:

9           “(1) IN GENERAL.—Except as provided in para-  
10 graph (2), the amendments made by this section  
11 shall apply to plan years beginning after December  
12 31 of the applicable funding pre-effective date year  
13 (as defined in section 1305 of this Act), or, in the  
14 case of a multiemployer plan, plan years beginning  
15 after December 31, 2007.”.

16           (2) REPEAL OF NOTICE.—Subsection (d) of sec-  
17 tion 501 of such Act is amended by redesignating  
18 paragraph (2) as paragraph (3), and by inserting  
19 after paragraph (1) the following new paragraph:

20           “(2) REPEAL OF NOTICE.—The amendment  
21 made by subsection (b) shall apply to plan years be-  
22 ginning after December 31, 2006.”.

23           (3) TRANSITION RULE.—Paragraph (3) of sec-  
24 tion 501(d) of such Act, as redesignated, is amend-  
25 ed—



1 (A) by adding “or, in the case of a single-  
2 employer plan, before January 1 of the applica-  
3 ble funding effective date year (as defined in  
4 section 1305 of this Act)” after “2008,”

5 (B) by striking “2006” and inserting  
6 “2006 or, in the case of a single-employer plan,  
7 before the applicable funding pre-effective date  
8 year (as defined in section 1305 of this Act)”

9 (C) by striking “2007” and inserting “the  
10 applicable funding pre-effective date year (as  
11 defined in section 1305 of this Act)”

12 (D) by striking “or funded percentage” the  
13 second place it appears,

14 (E) by striking “may provide.” and insert-  
15 ing “may provide, and”

16 (F) by adding at the end the following:

17 “(C) in the case of a plan year beginning  
18 in 2007, the funded percentage as determined  
19 using such methods of estimation as the Sec-  
20 retary of the Treasury may provide.”

21 (e) CONFORMING AMENDMENTS REGARDING ADDI-  
22 TIONAL ANNUAL REPORTING REQUIREMENTS.—Sub-  
23 section (f) of section 503 of the Pension Protection Act  
24 of 2006 is amended to read as follows:

25 “(f) EFFECTIVE DATE.—

1           “(1) IN GENERAL.—Except as otherwise pro-  
2           vided in paragraph (2), the amendments made by  
3           this section shall apply to plan years beginning after  
4           the applicable funding pre-effective date year (as de-  
5           fined in section 1305 of this Act).

6           “(2) MULTIEMPLOYER PLANS.—With respect to  
7           multiemployer plans, the amendments made by this  
8           section shall apply to plan years beginning after De-  
9           cember 31, 2007.”.

10          (f) CONFORMING AMENDMENTS REGARDING PLAN  
11          AMENDMENTS.—

12                 (1) IN GENERAL.—Subparagraph (B) of section  
13                 1107(b)(1) of the Pension Protection Act of 2006 is  
14                 amended by striking “January 1, 2009” and insert-  
15                 ing “January 1 of the calendar year after the appli-  
16                 cable funding effective date year (as defined in sec-  
17                 tion 1305 of this Act)”.

18                 (2) GOVERNMENTAL PLANS.—Paragraph (1) of  
19                 section 1107(b) of such Act is amended to read as  
20                 follows:

21                         “(1) In the case of a governmental plan (as de-  
22                         fined in section 414(d) of the Internal Revenue Code  
23                         of 1986), subparagraph (B) shall be applied as if it  
24                         read: ‘on or before the last day of the first plan year  
25                         beginning on or after January 1 of the calendar year

1 that is three years after the applicable funding effective date year (as defined in section 1305 of this Act)’.”.

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3  
4 (g) CONFORMING AMENDMENTS REGARDING DEDUCTION LIMITS.—

5  
6 (1) IN GENERAL.—Paragraph (1) of section 7 801(f) of the Pension Protection Act of 2006, as redesignated by paragraph (4), is amended—

8  
9 (A) by striking “paragraph (2)” and inserting “paragraphs (2) and (3)”, and

10  
11 (B) by striking “December 31, 2007” and inserting “December 31 of the applicable funding pre-effective date year (as defined in section 12 1305 of this Act)”.

13  
14  
15 (2) MULTIEMPLOYER PLANS.—Subsection (f) of section 801 of such Act, as redesignated by paragraph (4), is amended by redesignating paragraph 16 (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

17  
18  
19  
20 “(2) MULTIEMPLOYER PLANS.—Except as provided in paragraph (3), with respect to multiemployer plans, the amendments made by this section 21 shall apply to years beginning after December 31, 22 2007.”.

1           (3) SPECIAL RULE.—Paragraph (3) of section  
2           801(d) of such Act, as redesignated, is amended by  
3           adding at the end the following: “The amendments  
4           made by subsection (e) shall apply to years begin-  
5           ning after December 31, 2007, and before January  
6           1 of the applicable funding effective date year (as  
7           defined in section 1305 of this Act).”.

8           (4) CONFORMING AMENDMENTS.—

9           (A) IN GENERAL.—Subparagraph (D) of  
10           section 404(a)(1) of the Internal Revenue Code  
11           of 1986 (as amended by the Pension Protection  
12           Act of 2006 other than section 802 of such Act)  
13           is amended by adding at the end the following:

14                   “(v) MULTIEMPLOYER PLANS.—In the  
15                   case of a defined benefit plan which is a  
16                   multiemployer plan, except as provided in  
17                   regulations, the maximum amount deduct-  
18                   ible under the limitations of this paragraph  
19                   shall not be less than the excess (if any)  
20                   of—

21                           “(I) 140 percent of the current  
22                           liability of the plan determined under  
23                           section 431(c)(6)(C), over

1                   “(II) the value of the plan’s as-  
2                   sets determined under section  
3                   431(c)(2).”.

4                   (B) SINGLE-EMPLOYER PLANS.—Subpara-  
5                   graph (D) of section 404(a)(1) of such Code is  
6                   amended—

7                   (i) by inserting after “defined benefit  
8                   plan” in clause (i) the following “(other  
9                   than a multiemployer plan)”,

10                  (ii) by striking “(140 percent in the  
11                  case of a multiemployer plan)” in clause  
12                  (i), and

13                  (iii) by striking “clause (i)” in clause  
14                  (iv) and inserting “clauses (i) and (v)”.

15                  (h) CONFORMING AMENDMENT REGARDING COM-  
16                  MERCIAL AIRLINES.—Paragraph (2) of section 402(a) of  
17                  the Pension Protection Act of 2006 is amended by adding  
18                  at the end the following: “In the case of an election under  
19                  this paragraph, such sections shall apply with respect to  
20                  such plan sponsor based on the effective date provisions  
21                  in effect immediately before the enactment of section 1305  
22                  of this Act.”.

1 **SEC. 2. EFFECTIVE DATE.**

2       The amendments made by this Act shall take effect  
3 as if included in the enactment of the Pension Protection  
4 Act of 2006.

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