

112TH CONGRESS
2D SESSION

S. 3544

To make available funds from the Emergency Economic Stabilization Act of 2008 for funding pension benefits with respect to former employees of Delphi Corporation.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 13, 2012

Mr. BROWN of Ohio (for himself, Mr. SCHUMER, and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To make available funds from the Emergency Economic Stabilization Act of 2008 for funding pension benefits with respect to former employees of Delphi Corporation.

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 “Delphi Pensions Res-
5 toration Act of 2012”.

1 **SEC. 2. SALE OF TROUBLED ASSETS TO FUND CERTAIN**
2 **PENSION BENEFITS.**

3 (a) IN GENERAL.—Subsection (d) of section 106 of
4 the Emergency Economic Stabilization Act of 2008 (12
5 U.S.C. 5216) is amended to read as follows:

6 “(d) DISPOSITION OF REVENUES.—

7 “(1) TRANSFER TO TREASURY.—Except as pro-
8 vided in paragraph (2), revenues of, and proceeds
9 from the sale of troubled assets purchased under
10 this Act, or from the sale, exercise, or surrender of
11 warrants or senior debt instruments acquired under
12 section 113 shall be paid into the general fund of
13 the Treasury for reduction of the public debt.

14 “(2) FUNDING OF CERTAIN PENSION BENE-
15 FITS.—Proceeds from the sale or transfer, after the
16 date of the enactment of the Delphi Pensions Res-
17 toration Act of 2012, of any stock, warrant, or fi-
18 nancial instrument acquired by the Secretary in con-
19 nection with providing financial assistance to the
20 General Motors Corporation under this Act shall be
21 transferred to the Delphi Retired Employees Fund
22 established under section 3 of such Act.”.

23 **SEC. 3. DELPHI RETIRED EMPLOYEES FUND.**

24 (a) ESTABLISHMENT OF FUND.—There is estab-
25 lished on the books of the Treasury of the United States
26 a Delphi Retired Employees Fund (hereinafter in this sec-

1 tion referred to as the “Fund”) to be used by the Sec-
2 retary of the Treasury in making the payments required
3 under subsection (b).

4 (b) PAYMENTS FROM THE FUND.—The Fund shall
5 be available—

6 (1) for paying to each eligible separated em-
7 ployee (on a lump sum basis, if appropriate) an
8 amount equal to—

9 (A) the nonforfeitable benefits to which
10 such employee was entitled under a defined
11 benefit plan described in subsection (d) as in ef-
12 fect immediately before the termination of the
13 plan, but which are not payable to such em-
14 ployee by reason of the termination of the plan;
15 reduced by

16 (B) the amounts paid to such employee by
17 the Pension Benefit Guaranty Corporation
18 under section 4022(a) of the Employee Retirement
19 Security Act of 1974 (29 U.S.C.
20 1322(a)); and

21 (2) for paying the operational and administra-
22 tive expenses in connection with the operation of the
23 Fund, including reimbursement of expenses incurred
24 by the Pension Benefit Guaranty Corporation in

1 connection with the information sharing require-
2 ments of subsection (e).

3 (c) ELIGIBLE SEPARATED EMPLOYEE.—For pur-
4 poses of this section, the term “eligible separated em-
5 ployee” means any individual—

6 (1) who is separated from employment with
7 Delphi Corporation before the date of the enactment
8 of this Act;

9 (2) who was a participant in a defined benefit
10 plan described in subsection (d); and

11 (3) who is not covered by any agreement be-
12 tween the General Motors Corporation and partici-
13 pants in such a defined benefit plan under which the
14 General Motors Corporation provides to the partici-
15 pants that are covered by the agreement a payment
16 of nonforfeitable benefits in an amount equal to the
17 amount that such participants would have been enti-
18 tled to receive under the plan but for the termi-
19 nation of such plan.

20 (d) DEFINED BENEFIT PLANS DESCRIBED.—A de-
21 fined benefit plan described in this subsection is a defined
22 benefit plan—

23 (1) that was terminated before the date of the
24 enactment of this Act pursuant to a proceeding
25 under title 11, United States Code;

1 (2) that was sponsored by the Delphi Corpora-
2 tion before the date of such termination; and

3 (3) with respect to which the Pension Benefit
4 Guaranty Corporation is administering, as of such
5 date of enactment, the payment of the nonforfeitable
6 benefits guaranteed under section 4022(a) of the
7 Employee Retirement Security Act of 1974 (29
8 U.S.C. 1322(a)).

9 (e) INFORMATION SHARING BY PENSION BENEFIT
10 GUARANTY CORPORATION.—The Pension Benefit Guar-
11 anty Corporation shall provide to the Secretary of the
12 Treasury such information as the Secretary of the Treas-
13 ury may request to assist in determining the amount of
14 each payment required to be made under subsection
15 (b)(1).

16 (f) INVESTMENT OF THE FUND.—Whenever the Sec-
17 retary of the Treasury determines that the moneys of the
18 Fund are in excess of current needs, the Secretary of the
19 Treasury may invest such amounts as such Secretary
20 deems advisable in obligations issued or guaranteed by the
21 United States. Earnings on investment under the pre-
22 ceding sentence shall be credited to the Fund.

23 **SEC. 4. APPLICATION TO PENDING LITIGATION.**

24 Nothing in this Act shall be construed to invalidate,
25 vitate, or otherwise interfere with any legal or administra-

- 1 tive proceeding initiated prior to the date of the enactment
- 2 of this Act.

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