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115TH CONGRESS
1ST SESSION

H. R. 3596

To amend the Employee Retirement Income Security Act of 1974 to adjust single-employer premiums, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2017

Mr. KELLY of Pennsylvania (for himself and Mr. KIND) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Rules, and the Budget, 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 amend the Employee Retirement Income Security Act of 1974 to adjust single-employer premiums, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Rightsizing Pension Premiums Act of 2017''.

SEC. 2. RIGHTSIZING PENSION PREMIUMS.

(a) IN GENERAL.—Section 4006(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)) is amended by adding at the end the following:

"(9) PREMIUM ADJUSTMENTS FOR SMALL EMPLOYERS AND BASED ON PBGC FUNDED PERCENTAGE.—

"(A) IN GENERAL.—Notwithstanding paragraph (3)(A)(i) and subject to subparagraphs (B) and (C), the annual premium rate payable to the corporation by a single-employer plan for basic benefits guaranteed under this title is—

"(i) in the case of a single-employer plan for any plan year beginning in a fiscal year with respect to which the average of the single-employer pension insurance program funded percentages for the 2 fiscal years immediately preceding such fiscal year is 110 percent or greater, an amount for each individual who is a participant in such plan during the plan year equal to the sum of $19 and an additional premium equal to the quotient (not to exceed $500) obtained by dividing—

"(I) an amount equal to $9 for each $1,000 (or fraction thereof) of unfunded vested benefits under the plan as of the close of the preceding plan year, by

"(II) the number of participants in such plan as of the close of the preceding plan year;

"(ii) in the case of a single-employer plan for any plan year beginning in a fiscal year with respect to which the average of the single-employer pension insurance program funded percentages for the 2 fiscal years immediately preceding such fiscal year is at least 100 percent but less than 110 percent, an amount for each individual who is a participant in such plan during the plan year equal to the sum of $30 and an additional premium equal to the quotient (not to exceed $500) obtained by dividing—

"(I) an amount equal to $9 for each $1,000 (or fraction thereof) of unfunded vested benefits under the plan as of the close of the preceding plan year, by

"(II) the number of participants in such plan as of the close of the preceding plan year;

"(iii) in the case of a single-employer plan for any plan year beginning in a fiscal year with respect to which the average of the single-employer pension insurance program funded percentages for the 2 fiscal years immediately preceding such fiscal year is at least 90 percent but less than 100 percent, an amount for each individual who is a participant in such plan during the plan year equal to the sum of $64 and an additional premium equal to the quotient (not to exceed $500) obtained by dividing—

"(I) an amount equal to $28 for each $1,000 (or fraction thereof) of unfunded vested benefits under the plan as of the close of the preceding plan year, by

"(II) the number of participants in such plan as of the close of the preceding plan year;

"(iv) notwithstanding clauses (i) through (iii), in the case of a CSEC plan (as defined in section 210(f)) or single-employer plan maintained by a small employer for any plan year, an amount for each individual who is a participant in such plan during the plan year equal to the sum of $19 and an additional premium equal to the quotient (not to exceed $500) obtained by dividing—

"(I) an amount equal to $9 for each $1,000 (or fraction thereof) of unfunded vested benefits under the plan as of the close of the preceding plan year, by

"(II) the number of participants in such plan as of the close of the preceding plan year; and

"(v) in any other case, the amount determined under paragraph (3)(A)(i).

"(B) SMALL EMPLOYER PREMIUM PHASE-OUT.—

"(i) IN GENERAL.—In the case of a single-employer plan maintained by an employer who has more than 500 employees but not more than 600 employees on the first day of the plan year, the annual premium rate payable to the corporation by such plan for basic benefits guaranteed under this title is an amount for each individual who is a participant in such plan during the plan year equal to the sum of—

"(I) the annual premium rate that would be so payable by such plan if such plan were maintained by a small employer for such plan year, plus—

"(II) the applicable percentage of the excess of—

"(aa) the annual premium rate so payable by such plan without regard to this subparagraph, over

"(bb) the annual premium rate that would be so payable by such plan as described under subclause (I).

"(ii) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the 'applicable percentage' is the ratio (expressed as a percentage) of—

"(I) the number of employees of the employer to the extent such number exceeds 500, over

"(II) 100.

"(C) SPECIAL RULE FOR MULTIPLE EMPLOYER PLANS.—In the case of a multiple employer plan (other than a CSEC plan (as defined in section 210(f))), the annual premium rate payable to the corporation by such plan for basic benefits guaranteed under this title is the sum of the annual premiums that, if each employer maintaining such plan were treated as maintaining a separate plan in which—

"(i) the number of participants equals the number of participants in the multiple employer plan who are employed (or formerly employed) by such employer, and

"(ii) the amount of unfunded vested benefits equals the portion of the unfunded vested benefits under the multiple employer plan attributable to such employer,

would be imposed on each separate plan in accordance with this section. In determining the annual premiums that would be imposed on each of the separate plans described under this subparagraph, the determination of whether an employer is a small employer shall be made separately with respect to each employer maintaining the multiple employer plan.

"(D) SPECIAL RULE FOR SMALL EMPLOYERS WITH 25 OR FEWER EMPLOYEES.—In the case of a single-employer plan maintained by a small employer who has 25 or fewer employees on the first day of the plan year (as determined under paragraph (3)(I)(ii)), the additional premium otherwise determined under subparagraph (A)(iv) shall not exceed $5 multiplied by the number of participants in the plan as of the close of the preceding plan year.

"(E) WAGE INDEXING OF CERTAIN AMOUNTS.—For each plan year beginning in a calendar year after 2018, there shall be substituted for each of the first and second dollar amounts in clause (ii) of subparagraph (A) and the first, second, and third dollar amounts in clause (iii) of such subparagraph an amount equal to the greater of—

"(i) the product derived by multiplying each such amount by the ratio of—

"(I) the national average wage index (as defined in section 209(k)(1) of the Social Security Act) for the first of the 2 calendar years preceding the calendar year in which such plan year begins, to

"(II) the national average wage index (as so defined) for 2016; and

"(ii) each such amount as in effect for plan years beginning in the preceding calendar year.

If any amount determined under this subparagraph is not a multiple of $1, such product shall be rounded to the nearest multiple of $1.

"(F) DEFINITIONS.—For purposes of this paragraph:

"(i) SMALL EMPLOYER.—The term 'small employer' means an employer who has 500 or fewer employees on the first day of the plan year.

"(ii) MULTIPLE EMPLOYER PLAN.—The term 'multiple employer plan' means a single-employer plan maintained by more than one employer (as determined under section 210(a)).

"(iii) SINGLE-EMPLOYER PENSION INSURANCE PROGRAM FUNDED PERCENTAGE.—The term 'single-employer pension insurance program funded percentage' for a fiscal year means the ratio (expressed as a percentage) of—

"(I) the value of all assets held by the corporation in any trust or revolving fund on the last day of such fiscal year available for the payment of basic benefits guaranteed under section 4022, to

"(II) the present value (as determined in accordance with section 303(h) without regard to paragraph (2)(C)(iv)) of the liabilities of the corporation attributable to such guaranteed benefits on the last day of such fiscal year.

"(iv) UNFUNDED VESTED BENEFITS.—The term 'unfunded vested benefits' has the meaning given such term in paragraph (3)(E)(iii), except that with respect to a CSEC plan (as defined in section 210(f)), such term means the excess of—

"(I) the plan's funding liability (as defined in section 306(j)(5)(C)), determined by only taking into account vested benefits, over

"(II) the fair market value of plan assets for the plan year which are held by the plan on the valuation date.".

(b) INDIVIDUALS PARTICIPATING IN MORE THAN ONE PLAN.—Section 4006(a)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(B)) is amended by inserting "or paragraph (9)" after "subparagraph (A)(i)".

(c) CONFORMING AMENDMENT.—Section 4006(a)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306) is amended in the matter preceding clause (i) by inserting "and paragraph (9)" after "subparagraph (C)".

(d) EFFECTIVE DATE.—The amendments made by this shall apply with respect to plan years beginning after December 31, 2017.

SEC. 3. CORRECTION OF THE BUDGET EFFECTS OF PREMIUM CHANGES.

(a) IN GENERAL.—In the Senate and the House of Representatives, for purposes of determining points of order under the Congressional Budget Act of 1974 (2 U.S.C. 621 et seq.) or any concurrent resolution on the budget, any provision that increases or decreases, or extends the increase or decrease of, any premiums payable to the Pension Benefit Guaranty Corporation shall not be counted in estimating the level of budget authority, outlays, or revenues—

(1) in the Senate, for any bill, joint resolution, amendment, amendment between the Houses, conference report, or motion; or

(2) in the House of Representatives, for any bill or joint resolution, or amendment thereto or conference report thereon.

(b) RULES OF SENATE AND HOUSE OF REPRESENTATIVES.—Congress adopts the provisions of this section—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such is deemed a part of the rules of each House, respectively, and supersede other rules only to the extent that they are inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

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