

109TH CONGRESS
2^D SESSION

S. 4121

AN ACT

To provide optional funding rules for employers in applicable multiple employer pension plans.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. TREATMENT OF LIABILITY FOR CERTAIN MUL-**
2 **TIPLE EMPLOYER PLANS.**

3 (a) **IN GENERAL.**—In the case of an applicable pen-
4 sion plan—

5 (1) if an eligible employer elects the application
6 of subsection (b), any liability of the employer with
7 respect to the applicable pension plan shall be deter-
8 mined under subsection (b), and

9 (2) if an eligible employer does not make such
10 election, any liability of the employer with respect to
11 the applicable pension plan shall be determined
12 under subsection (c).

13 (b) **ELECTION TO SPIN OFF LIABILITY.**—

14 (1) **IN GENERAL.**—If an eligible employer
15 elects, within 180 days after the date of the enact-
16 ment of this Act, to have this subsection apply, the
17 applicable pension plan shall be treated as having,
18 effective January 1, 2006, spun off such employer's
19 allocable portion of the plan's assets and liabilities
20 to an eligible spunoff plan and the employer's liabil-
21 ity with respect to the applicable pension plan shall
22 be determined by reference to the eligible spunoff
23 plan in the manner provided under paragraph (2).

24 The employer's liability, as so determined, shall be
25 in lieu of any other liability to the Pension Benefit

1 Guaranty Corporation or to the applicable pension
2 plan with respect to the applicable pension plan.

3 (2) LIABILITY OF EMPLOYERS ELECTING SPIN-
4 OFF.—

5 (A) ONGOING FUNDING LIABILITY.—

6 (i) IN GENERAL.—In the case of an
7 eligible spunoff plan, the amendments
8 made by section 401, and subtitles A and
9 B of title I, of the Pension Protection Act
10 of 2006 shall not apply to plan years be-
11 ginning before the first plan year for which
12 the plan ceases to be an eligible spunoff
13 plan (or, if earlier, January 1, 2017), and
14 except as provided in clause (ii), the em-
15 ployer maintaining such plan shall be liable
16 for ongoing contributions to the eligible
17 spunoff plan on the same terms and sub-
18 ject to the same conditions as under the
19 provisions of the Employee Retirement In-
20 come Security Act of 1974 and the Inter-
21 nal Revenue Code of 1986 as in effect be-
22 fore such amendments. Such liability shall
23 be in lieu of any other liability to the Pen-
24 sion Benefit Guaranty Corporation or to

1 the applicable pension plan with respect to
2 the applicable pension plan.

3 (ii) INTEREST RATE.—In applying
4 section 302(b)(5)(B) of the Employee Re-
5 tirement Income Security Act of 1974 and
6 section 412(b)(5)(B) of the Internal Rev-
7 enue Code of 1986 (as in effect before the
8 amendments made by subtitles A and B of
9 title I of the Pension Protection Act of
10 2006) and in applying section
11 4006(a)(3)(E)(iii) of such Act (as in effect
12 before the amendments made by section
13 401 of such Act) to an eligible spunoff
14 plan for plan years beginning after Decem-
15 ber 31, 2007, and before the first plan
16 year to which such amendments apply, the
17 third segment rate determined under sec-
18 tion 303(h)(2)(C)(iii) of such Act and sec-
19 tion 430(h)(2)(C)(iii) of such Code (as
20 added by such amendments) shall be used
21 in lieu of the interest rate otherwise used.

22 (B) TERMINATION LIABILITY.—If an eligi-
23 ble spunoff plan terminates under title IV of
24 the Employee Retirement Income Security Act
25 of 1974 on or before December 31, 2010, the

1 liability of the employer maintaining such plan
2 resulting from such termination under section
3 4062 of the Employee Retirement Income Secu-
4 rity Act of 1974 shall be determined in accord-
5 ance with the assumptions and methods de-
6 scribed in subsection (c)(2)(A). The employer's
7 liability, as so determined, shall be in lien of
8 any other liability to the Pension Benefit Guar-
9 anty Corporation or to the applicable pension
10 plan with respect to the applicable pension plan.

11 (c) LIABILITY OF EMPLOYERS NOT ELECTING SPIN-
12 OFF.—

13 (1) IN GENERAL.—If an applicable pension plan
14 is terminated under the Employee Retirement In-
15 come Security Act of 1974, an eligible employer
16 which does not make the election described in sub-
17 section (b) shall be liable to the corporation with re-
18 spect to the applicable pension plan (in lieu of any
19 other liability to the Pension Benefit Guaranty Cor-
20 poration or to the applicable pension plan with re-
21 spect to the applicable pension plan) in an amount
22 equal to the fractional portion of the adjusted un-
23 funded benefit liabilities of such plan as of Decem-
24 ber 31, 2005, determined without regard to any ad-
25 justed unfunded benefit liabilities to be transferred

1 to an eligible spunoff plan pursuant to subsection
2 (b).

3 (2) DEFINITIONS.—For purposes of this
4 subsection—

5 (A) ADJUSTED UNFUNDED BENEFIT LI-
6 ABILITIES.—The term “adjusted unfunded ben-
7 efit liabilities” means the amount of unfunded
8 benefit liabilities (as defined in section
9 4001(a)(18) of the Employee Retirement In-
10 come Security Act of 1974), except that the in-
11 terest assumption shall be the rate of interest
12 under section 302(b) of the Employee Retire-
13 ment Income Security Act of 1974 and section
14 412(b) of the Internal Revenue Code of 1986,
15 as in effect before the amendments made by the
16 Pension Protection Act of 2006, for the most
17 recent plan year for which such rate exists.

18 (B) FRACTIONAL PORTION.—The term
19 “fractional portion” means a fraction, the nu-
20 merator of which is the amount required to be
21 contributed to the applicable pension plan for
22 the 5 plan years ending before December 31,
23 2005, by such employer, and the denominator
24 of which is the amount required to be contrib-
25 uted to such plan for such plan years by all em-

1 employers which do not make the election de-
2 scribed in subsection (b).

3 (d) OTHER DEFINITIONS.—For purposes of this
4 section—

5 (1) APPLICABLE PENSION PLAN.—The term
6 “applicable pension plan” means a single employer
7 plan which—

8 (A) was established in the State of Alaska
9 on March 18, 1967, and

10 (B) as of January 1, 2005, had 2 or more
11 contributing sponsors at least 2 of which were
12 not under common control.

13 (2) ALLOCABLE PORTION.—The term “allocable
14 portion” means, with respect to any eligible em-
15 ployer making an election under subsection (b), the
16 portion of an applicable pension plan’s liabilities and
17 assets which bears the same ratio to all such liabil-
18 ities and assets as such employer’s share (deter-
19 mined under subsection (c) as if no eligible employer
20 made an election under subsection (b)) of the excess
21 (if any) of—

22 (A) the liabilities of the plan, valued in ac-
23 cordance with subsection (c), over

24 (B) the assets of the plan,
25 bears to the total amount of such excess.

1 (3) ELIGIBLE EMPLOYER.—An “eligible em-
2 ployer” is an employer which participated in an eli-
3 gible multiple employer plan on or after January 1,
4 2000.

Passed the Senate December 8, 2006.

Attest:

Secretary.

109TH CONGRESS
2^D SESSION

S. 4121

AN ACT

To provide optional funding rules for employers in applicable multiple employer pension plans.