

107TH CONGRESS  
2D SESSION

# S. 3139

To provide a right to be heard for participants and beneficiaries of an employee pension benefit plan of a debtor in order to protect pensions of those employees and retirees.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 17, 2002

Mr. SESSIONS (for himself, Mr. GRASSLEY, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To provide a right to be heard for participants and beneficiaries of an employee pension benefit plan of a debtor in order to protect pensions of those employees and retirees.

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 “Employee Pension  
5       Bankruptcy Protection Act of 2002”.

6       **SEC. 2. PURPOSE AND INTENT.**

7       The purpose and intent of this Act is to provide em-  
8       ployees and retirees with a greater likelihood of having

1 outstanding pension liabilities paid by a corporation that  
 2 files for bankruptcy by allowing the employees and retirees  
 3 of that corporation the right to be heard before the bank-  
 4 ruptcy court.

5 **SEC. 3. RIGHT TO BE HEARD.**

6 Section 1109 of title 11, United States Code, is  
 7 amended by adding at the end the following:

8 “(c) In a case in which the debtor is the sponsor of  
 9 an employee pension benefit plan pursuant to section 3(2)  
 10 of the Employee Retirement Income Security Act of 1974  
 11 (29 U.S.C. 1002(2)), and such plan is likely to be termi-  
 12 nated pursuant to title IV of that Act or substantially un-  
 13 derfunded by the debtor resulting in a hardship to the par-  
 14 ticipants or beneficiaries, a representative of the partici-  
 15 pants (as defined in section 3(7) of that Act) and bene-  
 16 ficiaries (as defined in section 3(8) of that Act) who are  
 17 entitled to benefits under such plan and who may be ad-  
 18 versely affected by events in the case, may appear and be  
 19 heard with respect to a sale of all or substantially all of  
 20 the assets of the debtor or with respect to a plan of reorga-  
 21 nization, provided that such participants and beneficiaries  
 22 may employ counsel and other professionals who shall be  
 23 compensated from the estate of the debtor.”.

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