

109TH CONGRESS
1ST SESSION

H. R. 3789

To amend title I of the Employee Retirement Income Security Act of 1974 to provide, in the case of an employee welfare benefit plan providing benefits in the event of disability, an exemption from preemption under such title for State tort actions to recover damages arising from the failure of the plan to timely provide such benefits.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 15, 2005

Mr. ANDREWS introduced the following bill; which was referred to the
Committee on Education and the Workforce

A BILL

To amend title I of the Employee Retirement Income Security Act of 1974 to provide, in the case of an employee welfare benefit plan providing benefits in the event of disability, an exemption from preemption under such title for State tort actions to recover damages arising from the failure of the plan to timely provide such benefits.

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. EXEMPTION FROM ERISA PREEMPTION FOR**
2 **STATE CAUSES OF ACTION IN TORT TO RE-**
3 **COVER DAMAGES ARISING FROM THE FAIL-**
4 **URE OF A PLAN PROVIDING BENEFITS IN THE**
5 **EVENT OF DISABILITY TO TIMELY PROVIDE**
6 **SUCH BENEFITS.**

7 Section 514(b) of the Employee Retirement Income
8 Security Act of 1974 (29 U.S.C. 1144(b)) is amended—

9 (1) by redesignating paragraph (9) as para-
10 graph (10); and

11 (2) by inserting after paragraph (8) the fol-
12 lowing new paragraph:

13 “(9) Subsection (a) shall not be construed to pre-
14 clude, in the case of an employee welfare benefit plan pro-
15 viding benefits in the event of disability, any cause of ac-
16 tion in tort under State law to recover damages arising
17 from the failure of such plan to timely provide such bene-
18 fits.”.

19 **SEC. 2. EFFECTIVE DATE.**

20 The amendments made by this Act shall apply with
21 respect to failures occurring on or after the date of the
22 enactment of this Act.

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