

109TH CONGRESS
1ST SESSION

H. R. 3862

To provide for appropriate waivers, suspensions, or exemptions from provisions of title I of the Employee Retirement Income Security Act of 1974 with respect to individual account plans affected by Hurricane Katrina.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 2005

Mr. BOEHNER (for himself, Mr. SAM JOHNSON of Texas, Mr. KLINE, Mr. JINDAL, and Mr. BOUSTANY) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To provide for appropriate waivers, suspensions, or exemptions from provisions of title I of the Employee Retirement Income Security Act of 1974 with respect to individual account plans affected by Hurricane Katrina.

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 “Pension Flexibility for
5 Displaced Workers Act of 2005”.

1 **SEC. 2. AUTHORITY TO PRESCRIBE GUIDANCE BY REASON**
2 **OF THE PRESIDENTIALLY DECLARED DIS-**
3 **ASTER CAUSED BY HURRICANE KATRINA.**

4 (a) WAIVERS, SUSPENSIONS, OR EXEMPTIONS.—In
5 the case of any pension plan which is an individual account
6 plan, or any participant or beneficiary, plan sponsor, ad-
7 ministrator, fiduciary, service provider, or other person
8 with respect to such plan, affected by Hurricane Katrina,
9 or any service provider or other person dealing with such
10 plan, the Secretary of Labor may, notwithstanding any
11 provision of title I of the Employee Retirement Income
12 Security Act of 1974, prescribe, by notice or otherwise,
13 a waiver, suspension, or exemption from any provision of
14 such title which is under the regulatory authority of such
15 Secretary, or from regulations issued under any such pro-
16 vision, that such Secretary determines appropriate to fa-
17 cilitate the distribution or loan of assets from such plan
18 to participants and beneficiaries of such plan.

19 (b) EXEMPTION FROM LIABILITY FOR ACTS OR
20 OMISSIONS COVERED BY WAIVER, SUSPENSION, OR EX-
21 EMPTION.—No person shall be liable for any violation of
22 title I of the Employee Retirement Income Security Act
23 of 1974, or of any regulations issued under such title,
24 based upon any act or omission covered by a waiver, sus-
25 pension, or exemption issued under subsection (a) if such

1 act or omission is in compliance with the terms of the
2 waiver, suspension, or exemption.

3 (c) PLAN TERMS SUBJECT TO WAIVER, SUSPENSION,
4 OR EXEMPTION.—Notwithstanding any provision of the
5 plan to the contrary and to the extent provided in any
6 waiver, suspension, or exemption issued by the Secretary
7 of Labor pursuant to subsection (a), no plan shall be
8 treated as failing to be operated in accordance with its
9 terms solely as a result of acts or omissions which are
10 consistent with such waiver, suspension, or exemption.

11 (d) EXPIRATION OF AUTHORITY.—This section shall
12 apply only with respect to waivers, suspensions, or exemp-
13 tions issued by the Secretary of Labor during the 1-year
14 period following the date of the enactment of this Act.

15 (e) DEFINITIONS.—Terms used in this section shall
16 have the meanings provided such terms in section 3 of
17 the Employee Retirement Income Security Act of 1974
18 (29 U.S.C. 1002).

19 **SEC. 3. AUTHORITY IN THE EVENT OF PRESIDENTIALLY DE-**
20 **CLARED DISASTER OR TERRORISTIC OR**
21 **MILITARY ACTIONS.**

22 Section 518 of the Employee Retirement Income Se-
23 curity Act of 1974 (29 U.S.C. 1148) is amended by insert-

- 1 ing “, under any regulation issued thereunder, or under
- 2 any plan provision” after “under this Act”.

