

109TH CONGRESS
1ST SESSION

H. R. 4590

To amend title 11 of the United States Code to provide fair treatment
of employee benefits.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 16, 2005

Mr. FORD introduced the following bill; which was referred to the Committee
on the Judiciary

A BILL

To amend title 11 of the United States Code to provide
fair treatment of employee benefits.

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 Retirement
5 Preservation Act”.

6 **SEC. 2. FAIR TREATMENT OF EMPLOYEE BENEFITS.**

7 (a) DEFINITION OF CLAIM.—Section 101(5) of title
8 11, United States Code, is amended—

9 (1) in subparagraph (A), by striking “or” at
10 the end;

1 (2) in subparagraph (B), by inserting “or”
2 after the semicolon; and

3 (3) by adding at the end the following:

4 “(C) right or interest in equity securities
5 of the debtor, or an affiliate of the debtor, held
6 in a pension plan (within the meaning of sec-
7 tion 3(2) of the Employee Retirement Income
8 Security Act of 1974 (29 U.S.C. 1002(2))) for
9 the benefit of an individual who is not an offi-
10 cer or director of the debtor, if such securities
11 were attributable to—

12 “(i) employer contributions by the
13 debtor or an affiliate of the debtor other
14 than elective deferrals (within the meaning
15 of section 402(g) of the Internal Revenue
16 Code of 1986), and any earnings thereon;
17 and

18 “(ii) elective deferrals (and any earn-
19 ings thereon) that are required to be in-
20 vested in such securities under the terms
21 of the plan or at the direction of a person
22 other than the individual or any bene-
23 ficiary,

24 except that this subparagraph shall not apply to
25 any such securities during any period during

1 which the individual or any beneficiary has the
2 right to direct the plan to divest such securities
3 and to reinvest an equivalent amount in other
4 investment options of the plan;”.

5 (b) PRIORITIES.—Section 507(a)(5) of title 11,
6 United States Code, is amended—

7 (1) in subparagraph (B), by indenting the left
8 margin of clauses (i) and (ii) 2 ems to the right and
9 redesignating such clauses as subclauses (I) and
10 (II), respectively;

11 (2) by indenting the left margin of subpara-
12 graphs (A) and (B) 2 ems to the right and redesign-
13 ating such subparagraphs as clauses (i) and (ii),
14 respectively;

15 (3) in the matter preceding clause (i), as so re-
16 designated, by striking “Fifth” and all that follows
17 through “plan—” and inserting the following:
18 “Fifth—

19 “(A) allowed unsecured claims for con-
20 tributions to an employee benefit plan—”;

21 (4) by striking the period at the end and insert-
22 ing the following: “; or”; and

23 (5) by adding at the end the following:

24 “(B) allowed unsecured claims with respect
25 to rights or interests in equity securities of the

1 debtor, or an affiliate of the debtor, that are
 2 held in a pension plan (within the meaning of
 3 section 3(2) of the Employee Retirement In-
 4 come Security Act of 1974), without regard to
 5 when services were rendered or limitation in
 6 amount, and measured by the market value of
 7 the stock at the time the stock was contributed
 8 to, or purchased by, the plan.”.

9 **SEC. 3. WAGE PRIORITY AND EMPLOYEE BENEFIT CAP.**

10 Section 507(a) of title 11, United States Code, is
 11 amended—

12 (1) in paragraph (3), by striking “\$10,000”
 13 and inserting “\$13,500”; and

14 (2) in paragraph (5)(A)(ii)(I), as so redesign-
 15 nated by section 2, by striking “\$10,000” and in-
 16 serting “\$13,500”.

17 **SEC. 4. SUBORDINATION.**

18 Section 510(b) of title 11, United States Code, is
 19 amended by inserting “(other than a claim described in
 20 section 105(5)(C))” after “claim” the 1st place it appears.

○