

109TH CONGRESS
1ST SESSION

S. 1158

To impose a 6-month moratorium on terminations of certain plans instituted under section 4042 of the Employee Retirement Income Security Act of 1974 in cases in which reorganization of contributing sponsors is sought in bankruptcy or insolvency proceedings.

IN THE SENATE OF THE UNITED STATES

MAY 26, 2005

Mr. KENNEDY (for himself, Mr. AKAKA, and Mr. LAUTENBERG) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To impose a 6-month moratorium on terminations of certain plans instituted under section 4042 of the Employee Retirement Income Security Act of 1974 in cases in which reorganization of contributing sponsors is sought in bankruptcy or insolvency proceedings.

1 *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stop Terminating Our
5 Pensions Act”.

1 **SEC. 2. 6-MONTH MORATORIUM ON CERTAIN PLAN TERMI-**
2 **NATIONS COMMENCED BY THE PENSION BEN-**
3 **EFIT GUARANTY CORPORATION.**

4 (a) IN GENERAL.—During the 6-month period begin-
5 ning on May 1, 2005, the Pension Benefit Guaranty Cor-
6 poration may not commence proceedings under section
7 4042 of the Employee Retirement Income Security Act of
8 1974 to terminate a plan to which this section applies or
9 execute termination or trustee agreements with respect to
10 such plan under such section 4042, and any trustee ap-
11 pointed under such section may not terminate such plan.

12 (b) APPLICATION TO PLANS.—This section applies to
13 a single-employer plan if—

14 (1) the unfunded benefit liabilities (as defined
15 in section 4001(a)(18) of such Act) of the plan (de-
16 termined as of the proposed termination date) are at
17 least \$1,000,000,000; and

18 (2) a contributing sponsor of such plan has
19 filed, or has had filed against such sponsor, a peti-
20 tion in a case under title 11, United States Code, or
21 under any similar law of a State or political subdivi-
22 sion of a State seeking reorganization, including
23 such a case in which liquidation was sought but
24 which has been converted to a case in which reorga-
25 nization is sought.

1 (c) RESTORATION.—In any case in which, during the
2 period described in subsection (a) and before the date of
3 the enactment of this Act, the Pension Benefit Guaranty
4 Corporation has commenced termination proceedings or
5 executed a termination or trustee agreement subject to the
6 moratorium provided under subsection (a), or a trustee
7 appointed under section 4042 of the Employee Retirement
8 Income Security Act of 1974 subject to such moratorium
9 with respect to such a plan has terminated such plan, the
10 Corporation or trustee shall cease any activities under-
11 taken to terminate the plan and shall take whatever action
12 is necessary and within the power thereof to restore the
13 plan to its status prior to the commencement of such pro-
14 ceedings.

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