

109TH CONGRESS
1ST SESSION

S. 607

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 with respect to early retirement benefits, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 11, 2005

Mr. HARKIN introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 with respect to early retirement benefits, and for other purposes.

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. PROTECTION OF SUBSIDIZED EARLY RETIRE-**
4 **MENT BENEFITS IN CORPORATE MERGERS**
5 **AND ACQUISITIONS.**

6 (a) AMENDMENT TO ERISA.—Section 208 of the
7 Employee Retirement Income Security Act of 1974 (29
8 U.S.C. 1058) is amended by—

1 (1) striking “A pension plan” and inserting
2 “(a) IN GENERAL.—A pension plan”; and

3 (2) adding at the end the following:

4 “(b) PROTECTION OF PRO-RATA SHARE OF EARLY
5 RETIREMENT SUBSIDY.—If—

6 “(1) an employee, following the sale of a cor-
7 poration or a corporate division, liquidation, merger,
8 consolidation, or other similar transaction, continues
9 employment in the same trade or business with the
10 employer that acquires the trade or business in such
11 transaction (referred to in this subsection as the
12 ‘successor employer’), and

13 “(2) the successor employer does not continue
14 to maintain any pension plan in which the employee
15 was a participant before such transaction,
16 then, solely for the purpose of determining eligibility
17 for any subsidized early retirement benefit provided
18 by such plan, there shall be taken into account any
19 periods of service with the successor employer that
20 would have been taken into account had such trans-
21 action not occurred.”.

22 (b) AMENDMENT TO THE INTERNAL REVENUE
23 CODE.—Section 414(l) of the Internal Revenue Code of
24 1986 (relating to mergers and consolidations of plans) is
25 amended by adding at the end the following:

1 “(3) PROTECTION OF PRO-RATA SHARE OF
2 EARLY RETIREMENT SUBSIDY.—If—

3 “(A) an employee, following the sale of a
4 corporation or a corporate division, liquidation,
5 merger, consolidation, or other similar trans-
6 action, continues employment in the same trade
7 or business with the employer that acquires the
8 trade or business in such transaction (referred
9 to in this paragraph as the ‘successor em-
10 ployer’), and

11 “(B) the successor employer does not con-
12 tinue to maintain any pension plan in which the
13 employee was a participant before such trans-
14 action,

15 then, solely for the purpose of determining eligibility
16 for any subsidized early retirement benefit provided
17 by such plan, there shall be taken into account any
18 periods of service with the successor employer that
19 would have been taken into account had such trans-
20 action not occurred.”.

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