

111TH CONGRESS
2D SESSION

H. R. 4608

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to allow multiemployer plans to amortize losses from certain fraudulent investment schemes over a 40-year period.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 2010

Mr. MAFFEI introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to allow multiemployer plans to amortize losses from certain fraudulent investment schemes over a 40-year period.

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. AMORTIZATION OF LOSSES FROM QUALIFIED**
4 **FRAUDULENT INVESTMENT SCHEMES.**

5 (a) AMENDMENT TO ERISA.—Section 304(b) of the
6 Employee Retirement Income Security Act of 1974 is

1 amended by adding at the end the following new para-
2 graph:

3 “(8) AMORTIZATION OF LOSSES FROM QUALI-
4 FIED FRAUDULENT INVESTMENT SCHEMES.—

5 “(A) PLAN SPONSOR ELECTION.—Notwith-
6 standing any other provision of this subsection,
7 the plan sponsor of a multiemployer plan may
8 elect to charge the total amount of the net in-
9 vestment losses (if any) which are incurred in
10 either or both of the first two plan years ending
11 after August 31, 2008, and which are attrib-
12 utable to losses from qualified fraudulent in-
13 vestment schemes as an item separate from
14 other experience losses, to be amortized in equal
15 annual installments (until fully amortized) over
16 a period of 40 plan years.

17 “(B) LOSSES FROM QUALIFIED FRAUDU-
18 LENT INVESTMENT SCHEMES.—For purposes of
19 this paragraph, the determination as to whether
20 losses are from qualified fraudulent investment
21 schemes shall be determined under rules pre-
22 scribed by the Secretary that are substantially
23 similar to the rules prescribed by the Secretary
24 for purposes of determining whether a loss from
25 such an arrangement is a theft loss for pur-

1 poses of section 165 of the Internal Revenue
2 Code of 1986.”.

3 (b) AMENDMENT TO INTERNAL REVENUE CODE OF
4 1986.—Section 431(b) of the Internal Revenue Code of
5 1986 is amended by adding at the end the following new
6 paragraph:

7 “(8) AMORTIZATION OF LOSSES FROM QUALI-
8 FIED FRAUDULENT INVESTMENT SCHEMES.—

9 “(A) PLAN SPONSOR ELECTION.—Notwith-
10 standing any other provision of this subsection,
11 the plan sponsor of a multiemployer plan may
12 elect to charge the total amount of the net in-
13 vestment losses (if any) which are incurred in
14 either or both of the first two plan years ending
15 after August 31, 2008, and which are attrib-
16 utable to losses from qualified fraudulent in-
17 vestment schemes as an item separate from
18 other experience losses, to be amortized in equal
19 annual installments (until fully amortized) over
20 a period of 40 plan years.

21 “(B) LOSSES FROM QUALIFIED FRAUDU-
22 LENT INVESTMENT SCHEMES.—For purposes of
23 this paragraph, the determination as to whether
24 losses are from qualified fraudulent investment
25 schemes shall be determined under rules pre-

1 scribed by the Secretary that are substantially
2 similar to the rules prescribed by the Secretary
3 for purposes of determining whether a loss from
4 such an arrangement is a theft loss for pur-
5 poses of section 165 of the Internal Revenue
6 Code of 1986.”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect as of the first day of the first
9 plan year beginning after August 31, 2008, except that
10 any election a plan makes pursuant to this section that
11 affects the plan’s funding standard account for the first
12 plan year beginning after August 31, 2008, shall be dis-
13 regarded for purposes of applying the provisions of section
14 305 of the Employee Retirement Income Security Act of
15 1974 and section 432 of the Internal Revenue Code of
16 1986 to such plan year.

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