

111TH CONGRESS
2D SESSION

S. 3006

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 SENATE OF THE UNITED STATES

FEBRUARY 9 (legislative day, FEBRUARY 8), 2010

Mr. SCHUMER introduced the following bill; which was read twice and referred to the Committee on Finance

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
7 amended by adding at the end the following new para-
8 graph:

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

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

15 “(B) LOSSES FROM QUALIFIED FRAUDU-
16 LENT INVESTMENT SCHEMES.—For purposes of
17 this paragraph, the determination as to whether
18 losses are from qualified fraudulent investment
19 schemes shall be determined under rules pre-
20 scribed by the Secretary that are substantially
21 similar to the rules prescribed by the Secretary
22 for purposes of determining whether a loss from
23 such an arrangement is a theft loss for pur-
24 poses of section 165 of the Internal Revenue
25 Code of 1986.”.

1 (b) AMENDMENT TO INTERNAL REVENUE CODE OF
2 1986.—Section 431(b) of the Internal Revenue Code of
3 1986 is amended by adding at the end the following new
4 paragraph:

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

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

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

1 for purposes of determining whether a loss from
2 such an arrangement is a theft loss for pur-
3 poses of section 165 of the Internal Revenue
4 Code of 1986.”.

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

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