II

112TH CONGRESS
2D SESSION

S. 3544

To make available funds from the Emergency Economic Stabilization Act of 2008 for funding pension benefits with respect to former employees of Delphi Corporation.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 13, 2012

Mr. BROWN of Ohio (for himself, Mr. SCHUMER, and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To make available funds from the Emergency Economic Stabilization Act of 2008 for funding pension benefits with respect to former employees of Delphi Corporation.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Delphi Pensions Restoration Act of 2012''.

SEC. 2. SALE OF TROUBLED ASSETS TO FUND CERTAIN PENSION BENEFITS.

(a) IN GENERAL.—Subsection (d) of section 106 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5216) is amended to read as follows:

''(d) DISPOSITION OF REVENUES.—

''(1) TRANSFER TO TREASURY.—Except as provided in paragraph (2), revenues of, and proceeds from the sale of troubled assets purchased under this Act, or from the sale, exercise, or surrender of warrants or senior debt instruments acquired under section 113 shall be paid into the general fund of the Treasury for reduction of the public debt.

''(2) FUNDING OF CERTAIN PENSION BENEFITS.—Proceeds from the sale or transfer, after the date of the enactment of the Delphi Pensions Restoration Act of 2012, of any stock, warrant, or financial instrument acquired by the Secretary in connection with providing financial assistance to the General Motors Corporation under this Act shall be transferred to the Delphi Retired Employees Fund established under section 3 of such Act.''.

SEC. 3. DELPHI RETIRED EMPLOYEES FUND.

(a) ESTABLISHMENT OF FUND.—There is established on the books of the Treasury of the United States a Delphi Retired Employees Fund (hereinafter in this section referred to as the ''Fund'') to be used by the Secretary of the Treasury in making the payments required under subsection (b).

(b) PAYMENTS FROM THE FUND.—The Fund shall be available—

(1) for paying to each eligible separated employee (on a lump sum basis, if appropriate) an amount equal to—

(A) the nonforfeitable benefits to which such employee was entitled under a defined benefit plan described in subsection (d) as in effect immediately before the termination of the plan, but which are not payable to such employee by reason of the termination of the plan; reduced by

(B) the amounts paid to such employee by the Pension Benefit Guaranty Corporation under section 4022(a) of the Employee Retirement Security Act of 1974 (29 U.S.C. 1322(a)); and

(2) for paying the operational and administrative expenses in connection with the operation of the Fund, including reimbursement of expenses incurred by the Pension Benefit Guaranty Corporation in

connection with the information sharing requirements of subsection (e).

(c) ELIGIBLE SEPARATED EMPLOYEE.—For purposes of this section, the term ''eligible separated employee'' means any individual—

(1) who is separated from employment with Delphi Corporation before the date of the enactment of this Act;

(2) who was a participant in a defined benefit plan described in subsection (d); and

(3) who is not covered by any agreement between the General Motors Corporation and participants in such a defined benefit plan under which the General Motors Corporation provides to the participants that are covered by the agreement a payment of nonforfeitable benefits in an amount equal to the amount that such participants would have been entitled to receive under the plan but for the termination of such plan.

(d) DEFINED BENEFIT PLANS DESCRIBED.—A defined benefit plan described in this subsection is a defined benefit plan—

(1) that was terminated before the date of the enactment of this Act pursuant to a proceeding under title 11, United States Code;

(2) that was sponsored by the Delphi Corporation before the date of such termination; and

(3) with respect to which the Pension Benefit Guaranty Corporation is administering, as of such date of enactment, the payment of the nonforfeitable benefits guaranteed under section 4022(a) of the Employee Retirement Security Act of 1974 (29 U.S.C. 1322(a)).

(e) INFORMATION SHARING BY PENSION BENEFIT GUARANTY CORPORATION.—The Pension Benefit Guaranty Corporation shall provide to the Secretary of the Treasury such information as the Secretary of the Treasury may request to assist in determining the amount of each payment required to be made under subsection (b)(1).

(f) INVESTMENT OF THE FUND.—Whenever the Secretary of the Treasury determines that the moneys of the Fund are in excess of current needs, the Secretary of the Treasury may invest such amounts as such Secretary deems advisable in obligations issued or guaranteed by the United States. Earnings on investment under the preceding sentence shall be credited to the Fund.

SEC. 4. APPLICATION TO PENDING LITIGATION.

Nothing in this Act shall be construed to invalidate, vitiate, or otherwise interfere with any legal or administrative proceeding initiated prior to the date of the enactment of this Act.

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