SECTION BY SECTION

House Committee on Education and Labor
Chairman Robert C. "Bobby" Scott

American Rescue Plan Act of 2021 (H.R. 1319)
Title IX, Subtitle H – Pensions

SEC. 9701. TEMPORARY DELAY OF DESIGNATION OF MULTIEMPLOYER PLANS AS IN ENDANGERED, CRITICAL, OR CRITICAL AND DECLINING STATUS.

The Pension Protection Act of 2006 (PPA) required plan trustees to conduct financial status projections of their plans at least once a year. If the projections revealed a problem, a plan will be classified as endangered (yellow zone) or critical (red zone). The MPRA added another classification – critical and declining (deep red zone) – for those plans that are projected to become insolvent in the next 20 years. In this section, a plan may retain its funding zone status as of a plan year beginning in 2019 for plan years that begin in 2020 or 2021. A plan in endangered or critical status will not have to update its plan or schedules until the plan year beginning March 1, 2021. This section is intended to provide plans with flexibility and ease an administrative burden in light of the COVID-19 crisis. Congress granted similar relief for multiemployer plans during the 2008 financial crisis.

SEC. 9702. TEMPORARY EXTENSION OF THE FUNDING IMPROVEMENT AND REHABILITATION PERIODS FOR MULTIEMPLOYER PENSION PLANS IN ENDANGERED AND CRITICAL STATUS FOR 2020 AND 2021.

The PPA required trustees of multiemployer pension plans that are less than 80% funded to develop either funding improvement or rehabilitation plans to improve its funding status. In this section, a plan in endangered (yellow zone) or critical (red zone) status for a plan year beginning in 2020 or 2021 may extend its rehabilitation period by five years. This section is intended to give plans additional time to improve contribution rates, limit benefit accruals, and maintain plan funding. This section, which helps those plans that are not eligible for the special financial assistance program, is effective for plan years beginning after December 31, 2019. Congress granted similar relief for multiemployer plans during the 2008 financial crisis.

SEC. 9703. ADJUSTMENTS TO FUNDING STANDARD ACCOUNT RULES.

Funding shortfalls as a result of investment losses are generally required to be made up by plans over a period of 15 years. Following the financial crisis of 2008, multiemployer plans were allowed to amortize investment losses from 2008 or 2009 over a period of 30 years. The

COVID-19 crisis and resulting loss of employment is damaging the funding of multiemployer pension plans, which are funded by negotiated contributions that are typically made to plans based on participants' hours worked. Expanded smoothing allows plans to fully reflect these losses over a longer period and provides additional time for plans to recover from the impacts of the pandemic. In this section, for plan years beginning in 2019 and 2020, a plan may use a 30-year amortization base to spread out investment and employment losses. Congress granted similar relief for multiemployer plans following the 2008 financial crisis.

SEC. 9704. SPECIAL FINANCIAL ASSISTANCE PROGRAM FOR FINANCIALLY TROUBLED MULTIEMPLOYER PLANS.

Over 1 million Americans participate in over 130 multiemployer plans that are rapidly running out of money. They are at risk of losing everything for which they worked and sacrificed. Making matters worse, the Pension Benefit Guaranty Corporation (PBGC), which insures private sector pension plans, is rapidly running out of money to backstop insolvent multiemployer pension plans. If plans fail, and if the PBGC's multiemployer program becomes insolvent, retirees will see their pensions reduced to nearly zero. Participating employers also face significant risk. Many of these failing plans cover workers who are on the front lines of the COVID-19 public health crisis. For example, these plans cover delivery, food and grocery store workers, and others. The economic catastrophe resulting from COVID-19 could exacerbate the multiemployer pension crisis and threaten the hard-earned pensions of even more workers and retirees. According to one nonpartisan actuarial estimate, the COVID-19 crisis could cause an additional 180 plans to become insolvent.[i] This means that over 300 plans could now be at risk of failure, and these plans cover over 2.5 million Americans. It is even more urgent for Congress to address the multiemployer pension crisis as quickly as possible.

This section establishes a special financial assistance program to ensure eligible multiemployer plan participants receive earned benefit **(no cuts)** and eligible plans remain well-funded for thirty years. The program is administered by the PBGC and funded through a direct transfer of funds from the Treasury Department.

There are four categories of plans that are eligible for the special financial assistance program: 1) plans that are in "critical and declining" status (projected to be insolvent within the next 15 years (or within 20 years in some situations) between the date of enactment and 2022; 2) plans which a suspension of benefits application approved under the Multiemployer Pension Reform Act (MPRA); 3) plans that are in "critical" status that are less than 40% funded and have an active to inactive participant ratio of less than 2 to 3 between the date of enactment and 2022; and 4) plans that became insolvent after December 16, 2014.

Within 120 days following enactment, the PBGC is required to issue regulations setting forth requirements for the special financial assistance program's application process. The PBGC may prioritize the processing of applications of those plans most in need. An eligible plan may apply to the PBGC and, upon approval, receives financial assistance. Once an application is approved, the payment to the eligible multiemployer plan is made as a single, lump sum payment. The amount of financial assistance is such amount required for the plan to pay all benefits due during the period beginning on the date of the special financial assistance payment and ending on the last day of the plan year ending in 2051 with generally no reduction in a participant's or beneficiary's accrued benefit. Plans are required to only invest such amounts in investment-grade bonds or other investments as permitted by the PBGC.

Any plan, which cut benefits under the MPRA, and which receives special financial assistance in this program, must restore its benefit cuts on a going forward basis and provide participants a lump sum payment (or equivalent monthly installments over a period of 5 years) to make them whole from past cuts.

The section also increases the PBGC multiemployer plan premium rate to $52 per participant starting in calendar year 2031.

SEC. 9705. EXTENDED AMORTIZATION FOR SINGLE EMPLOYER PLANS.

In light of an ongoing pattern of interest rate volatility, pension plans and plan sponsors need more stability and a longer period to pay for long-term liabilities that can stretch out for more than 50 years. In this section, funding shortfalls are amortized over 15 years (instead of 7 years).

SEC. 9706. EXTENSION OF PENSION FUNDING STABILIZATION PERCENTAGES FOR SINGLE EMPLOYER PLANS.

In 2012, 2014, and 2015, Congress provided for pension interest rate smoothing in order to address concerns that historically low interest rates were creating inflated pension funding obligations, diverting corporate assets away from jobs and business recovery. Under interest rate smoothing, the interest rates used to value pension liabilities must be within 10% of 25-year interest rate averages. The smoothed interest rates will begin phasing out in 2021, with the 10% corridor around the 25-year interest rate averages increasing five percentage points each year until interest rates need only be within 30% of the 25-year averages.

SEC. 9707. MODIFICATION OF SPECIAL RULES FOR MINIMUM FUNDING STANDARDS FOR COMMUNITY NEWSPAPER PLANS.

The SECURE Act, which became law in December 2019, provided pension funding relief for several community newspaper pension plans by increasing the interest rate to calculate those funding obligations to 8 percent. Additionally, the SECURE Act provided a longer amortization period of 30 years from 7 years. These two changes enabled struggling community newspapers to stretch out their required pension plan contributions over a longer time. This section expands the SECURE Act relief to additional community newspapers.

SEC. 9708. EXPANSION OF LIMITATION ON EXCESSIVE EMPLOYEE REMUNERATION.

Under current law, publicly held companies are prohibited from deducting more than $1 million in compensation paid to the CEO, CFO, and the next 3 top paid officers. This section, which takes effect in 2027, adds the next 5 highest employees to the list.

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[i] Segal Company, Letter to House and Senate Leadership, Multiemployer Pension Relief Urgently Needed in Wake of COVID-19 Crisis, (April 9, 2020), https://www.segalco.com/media/1700/letter_to_congress_04092020-1.pdf.