

## CLIENT BULLETIN

### *House Passes Pension Relief Bill*

### *Bill Goes Back To Senate for Passage*

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The House passed H.R. 4213, the *American Jobs And Closing Tax Loopholes Act Of 2010* on May 28, 2010. The Bill does not contain an extension of the COBRA subsidy, but does contain much needed pension funding relief for single and multiemployer pension plans. The text of the bill is available by "[clicking here](#)" or at: [http://waysandmeans.house.gov/media/pdf/111/HWC\\_711\\_xml.pdf](http://waysandmeans.house.gov/media/pdf/111/HWC_711_xml.pdf).

The multiemployer pension relief is found at pages 136-168 of the Bill. The Bill makes parallel amendments to ERISA and the Code. We will focus on the multiemployer pension relief provisions of the Bill which are found in [Sections 311, 312, 313, 314](#) and [315](#).

Unfortunately, however, the House version amended the previously passed Senate version meaning the Bill must now go back to the Senate for passage of the House-amended version. The Senate does not meet again until June 7, 2010 and some news reports indicate the Bill is not guaranteed for quick passage.

In brief, the House Bill allows:

- Optional use of 30-year amortization periods for certain losses (Section 311)
- Optional longer recovery periods for multiemployer plans in endangered or critical status (Section 312)
- Modification of certain amortization extensions under prior law (Section 313)
- Alternative default schedule for plans in endangered or critical status (Section 314)
- Transition rule for certifications of plan status (Section 315)

The House summary of the Bill is available by "[clicking here](#)" or at: [http://waysandmeans.house.gov/media/pdf/111/America\\_Jobs\\_Summary.pdf](http://waysandmeans.house.gov/media/pdf/111/America_Jobs_Summary.pdf). Pages 8-10 of the summary discuss the multiemployer pension relief provisions and are excerpted below.

**Section 311 - Optional use of 30-year amortization periods.** Currently, multiemployer pension plans must amortize net experience losses over a 15-year period. The Bill permits plans to elect a 30-year amortization period for certain losses incurred in either or both of the first 2 plan years ending on or after June 30, 2008. The 30-year amortization extension is not available unless the plan is projected not to have a decrease in its funded percentage in 15 years. If a plan elects the extended amortization periods, benefit increases are restricted for a two-year period, unless the plan actuary certifies that increases are fully paid for by additional contributions by the plan sponsor and certain funding levels are projected to be met. The provision also extends the maximum smoothing period for determining plan asset values from 5 years to 10 years for either or both of the first 2 plan years ending on or after June 30, 2008.

**Section 312 - Optional longer recovery periods for multiemployer plans in endangered or critical status.** Under present law, certain underfunded multiemployer pension plans must improve their funding levels over a 10-year funding improvement period (15 years in the case of a seriously endangered plan) or a 10-year rehabilitation period. WREERA permitted a 3-year extension of these periods. The provision extends the WREERA relief so as to permit up to a 5-year extension of these periods (up to an additional 2 years for plans that elected WREERA relief).

**Section 313 - Modification of certain amortization extensions under prior law.** Makes changes to the determination whether certain funding-based conditions relating to an amortization extension has been met. Plans with such extensions may treat the return on plan assets for plan years that contain any of the period from June 30, 2008 to October 31, 2008 as the interest rate used for charges and credits to the plan's funding standard account.

**Section 314 - Alternative default schedule for plans in endangered or critical status.** Under the PPA, a default contribution schedule applies in the case of certain underfunded plans if the collective bargaining parties fail to reach agreement on a contribution schedule. The Bill allows the plan trustees to elect to use as the default schedule the contribution schedule that has been approved by the bargaining parties and that covers at least 75 percent of the employees actively participating in the plan. The provision is effective for designations of default schedules on or after the date of enactment.

**Section 315 - Transition rule for certifications of plan status.** This provision provides transition rules with respect to certifications of a plan's funded status for plans whose certifications are due after the date of enactment and for certain plans whose most recent certification does not take into account an election to take funding relief with respect to a plan year that begins on or after October 1, 2009.

We will monitor the progress of the Bill once the Senate reconvenes.

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