TIC International Corporation
Benefit Administrators and Consultants

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# CLIENT BULLETIN

## *Senate Passes Pension Relief Bill*

## *Bill Goes To House for Passage*

On Friday June 18, the Senate passed H.R. 3962, *Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010,* which included some of the multiemployer defined benefit plan pension relief that had been in the House passed bill H.R. 4213. See *Client Bulletin 2010-39* for more in H.R. 4213.

The Senate had been considering passage of H.R. 4213, but when a vote to stop debate on the bill failed on a 56-40 vote, thus stalling pension relief, top Democratic and Republican Senators agreed to add some of the pension relief provisions of H.R. 4213 onto H.R. 3962 as time was of the essence to pass some pension relief. The Senate then passed H.R. 3962 Friday under a procedure known as unanimous consent. H.R. 3962 appears to include the only relief that was in Section 311 of H.R. 4213, with some differences. H.R. 3962 is available by "*clicking here.*"

H.R. 3962 contains parallel amendments to ERISA and the Code. A copy of the amendments to the Code is available by "*clicking here*."

The multiemployer pension relief provisions are found at pages 62-74 of the bill. The relief for multiemployer plans includes:

- use of a separate 30-year amortization period for net investment losses incurred in either or both of the first two plan years ending after August 31, 2008;
- use of an extended smoothing period for the difference between actual and expected returns for either or both of the first two plan years ending after August 31, 2008 over up to a 10-year period; and
- use of a valuation corridor of between 80-130% of the fair market value of plan assets either or both of the first two plan years beginning after August 31, 2008.

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Multiemployer pension plans that take advantage of this relief must pass certain tests before any benefit increases can be implemented. A plan amendment increasing benefits generally may not go into effect during either of the two plan years immediately following the election of the 30-year amortization period or 10-year smoothing period unless:

- the plan actuary certifies that –
  - any such increase is paid for out of additional contributions <u>not</u> allocated to the plan immediately before the plan elected relief, and
  - the plan's funded percentage and projected credit balances for those two plan years are reasonably expected to be at least as high as such percentage and balances would have been if the benefit increase had not been adopted.

The Bill must now go back to the House for passage. Hopefully the House will pass the Bill "as is" and allow this much pension relief to be signed into law. Otherwise, if the House makes changes it must go back to the Senate again. We will monitor the progress of the Bill in the House.

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