

115TH CONGRESS  
1ST SESSION

# H. R. 3596

To amend the Employee Retirement Income Security Act of 1974 to adjust single-employer premiums, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2017

Mr. KELLY of Pennsylvania (for himself and Mr. KIND) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Rules, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Employee Retirement Income Security Act of 1974 to adjust single-employer premiums, and for other purposes.

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. SHORT TITLE.**

4 This Act may be cited as the “Rightsizing Pension  
5 Premiums Act of 2017”.

1 **SEC. 2. RIGHTSIZING PENSION PREMIUMS.**

2 (a) IN GENERAL.—Section 4006(a) of the Employee  
3 Retirement Income Security Act of 1974 (29 U.S.C.  
4 1306(a)) is amended by adding at the end the following:

5 “(9) PREMIUM ADJUSTMENTS FOR SMALL EM-  
6 PLOYERS AND BASED ON PBGC FUNDED PERCENT-  
7 AGE.—

8 “(A) IN GENERAL.—Notwithstanding para-  
9 graph (3)(A)(i) and subject to subparagraphs  
10 (B) and (C), the annual premium rate payable  
11 to the corporation by a single-employer plan for  
12 basic benefits guaranteed under this title is—

13 “(i) in the case of a single-employer  
14 plan for any plan year beginning in a fiscal  
15 year with respect to which the average of  
16 the single-employer pension insurance pro-  
17 gram funded percentages for the 2 fiscal  
18 years immediately preceding such fiscal  
19 year is 110 percent or greater, an amount  
20 for each individual who is a participant in  
21 such plan during the plan year equal to the  
22 sum of \$19 and an additional premium  
23 equal to the quotient (not to exceed \$500)  
24 obtained by dividing—

25 “(I) an amount equal to \$9 for  
26 each \$1,000 (or fraction thereof) of

1 unfunded vested benefits under the  
2 plan as of the close of the preceding  
3 plan year, by

4 “(II) the number of participants  
5 in such plan as of the close of the pre-  
6 ceding plan year;

7 “(ii) in the case of a single-employer  
8 plan for any plan year beginning in a fiscal  
9 year with respect to which the average of  
10 the single-employer pension insurance pro-  
11 gram funded percentages for the 2 fiscal  
12 years immediately preceding such fiscal  
13 year is at least 100 percent but less than  
14 110 percent, an amount for each individual  
15 who is a participant in such plan during  
16 the plan year equal to the sum of \$30 and  
17 an additional premium equal to the  
18 quotient (not to exceed \$500) obtained by  
19 dividing—

20 “(I) an amount equal to \$9 for  
21 each \$1,000 (or fraction thereof) of  
22 unfunded vested benefits under the  
23 plan as of the close of the preceding  
24 plan year, by

1                   “(II) the number of participants  
2                   in such plan as of the close of the pre-  
3                   ceding plan year;

4                   “(iii) in the case of a single-employer  
5                   plan for any plan year beginning in a fiscal  
6                   year with respect to which the average of  
7                   the single-employer pension insurance pro-  
8                   gram funded percentages for the 2 fiscal  
9                   years immediately preceding such fiscal  
10                  year is at least 90 percent but less than  
11                  100 percent, an amount for each individual  
12                  who is a participant in such plan during  
13                  the plan year equal to the sum of \$64 and  
14                  an additional premium equal to the  
15                  quotient (not to exceed \$500) obtained by  
16                  dividing—

17                  “(I) an amount equal to \$28 for  
18                  each \$1,000 (or fraction thereof) of  
19                  unfunded vested benefits under the  
20                  plan as of the close of the preceding  
21                  plan year, by

22                  “(II) the number of participants  
23                  in such plan as of the close of the pre-  
24                  ceding plan year;

1           “(iv) notwithstanding clauses (i)  
2 through (iii), in the case of a CSEC plan  
3 (as defined in section 210(f)) or single-em-  
4 ployer plan maintained by a small em-  
5 ployer for any plan year, an amount for  
6 each individual who is a participant in  
7 such plan during the plan year equal to the  
8 sum of \$19 and an additional premium  
9 equal to the quotient (not to exceed \$500)  
10 obtained by dividing—

11           “(I) an amount equal to \$9 for  
12 each \$1,000 (or fraction thereof) of  
13 unfunded vested benefits under the  
14 plan as of the close of the preceding  
15 plan year, by

16           “(II) the number of participants  
17 in such plan as of the close of the pre-  
18 ceding plan year; and

19           “(v) in any other case, the amount de-  
20 termined under paragraph (3)(A)(i).

21           “(B) SMALL EMPLOYER PREMIUM PHASE-  
22 OUT.—

23           “(i) IN GENERAL.—In the case of a  
24 single-employer plan maintained by an em-  
25 ployer who has more than 500 employees

1 but not more than 600 employees on the  
2 first day of the plan year, the annual pre-  
3 mium rate payable to the corporation by  
4 such plan for basic benefits guaranteed  
5 under this title is an amount for each indi-  
6 vidual who is a participant in such plan  
7 during the plan year equal to the sum of—

8 “(I) the annual premium rate  
9 that would be so payable by such plan  
10 if such plan were maintained by a  
11 small employer for such plan year,  
12 plus—

13 “(II) the applicable percentage of  
14 the excess of—

15 “(aa) the annual premium  
16 rate so payable by such plan  
17 without regard to this subpara-  
18 graph, over

19 “(bb) the annual premium  
20 rate that would be so payable by  
21 such plan as described under  
22 subclause (I).

23 “(ii) APPLICABLE PERCENTAGE.—For  
24 purposes of this subparagraph, the ‘appli-

1 cable percentage' is the ratio (expressed as  
2 a percentage) of—

3 “(I) the number of employees of  
4 the employer to the extent such num-  
5 ber exceeds 500, over

6 “(II) 100.

7 “(C) SPECIAL RULE FOR MULTIPLE EM-  
8 PLOYER PLANS.—In the case of a multiple em-  
9 ployer plan (other than a CSEC plan (as de-  
10 fined in section 210(f))), the annual premium  
11 rate payable to the corporation by such plan for  
12 basic benefits guaranteed under this title is the  
13 sum of the annual premiums that, if each em-  
14 ployer maintaining such plan were treated as  
15 maintaining a separate plan in which—

16 “(i) the number of participants equals  
17 the number of participants in the multiple  
18 employer plan who are employed (or for-  
19 merly employed) by such employer, and

20 “(ii) the amount of unfunded vested  
21 benefits equals the portion of the unfunded  
22 vested benefits under the multiple em-  
23 ployer plan attributable to such employer,  
24 would be imposed on each separate plan in ac-  
25 cordance with this section. In determining the

1 annual premiums that would be imposed on  
2 each of the separate plans described under this  
3 subparagraph, the determination of whether an  
4 employer is a small employer shall be made sep-  
5 arately with respect to each employer maintain-  
6 ing the multiple employer plan.

7 “(D) SPECIAL RULE FOR SMALL EMPLOY-  
8 ERS WITH 25 OR FEWER EMPLOYEES.—In the  
9 case of a single-employer plan maintained by a  
10 small employer who has 25 or fewer employees  
11 on the first day of the plan year (as determined  
12 under paragraph (3)(I)(ii)), the additional pre-  
13 mium otherwise determined under subpara-  
14 graph (A)(iv) shall not exceed \$5 multiplied by  
15 the number of participants in the plan as of the  
16 close of the preceding plan year.

17 “(E) WAGE INDEXING OF CERTAIN  
18 AMOUNTS.—For each plan year beginning in a  
19 calendar year after 2018, there shall be sub-  
20 stituted for each of the first and second dollar  
21 amounts in clause (ii) of subparagraph (A) and  
22 the first, second, and third dollar amounts in  
23 clause (iii) of such subparagraph an amount  
24 equal to the greater of—



1 “(i) the product derived by multi-  
2 plying each such amount by the ratio of—

3 “(I) the national average wage  
4 index (as defined in section 209(k)(1)  
5 of the Social Security Act) for the  
6 first of the 2 calendar years preceding  
7 the calendar year in which such plan  
8 year begins, to

9 “(II) the national average wage  
10 index (as so defined) for 2016; and

11 “(ii) each such amount as in effect for  
12 plan years beginning in the preceding cal-  
13 endar year.

14 If any amount determined under this subpara-  
15 graph is not a multiple of \$1, such product  
16 shall be rounded to the nearest multiple of \$1.

17 “(F) DEFINITIONS.—For purposes of this  
18 paragraph:

19 “(i) SMALL EMPLOYER.—The term  
20 ‘small employer’ means an employer who  
21 has 500 or fewer employees on the first  
22 day of the plan year.

23 “(ii) MULTIPLE EMPLOYER PLAN.—  
24 The term ‘multiple employer plan’ means a  
25 single-employer plan maintained by more

1 than one employer (as determined under  
2 section 210(a)).

3 “(iii) SINGLE-EMPLOYER PENSION IN-  
4 SURANCE PROGRAM FUNDED PERCENT-  
5 AGE.—The term ‘single-employer pension  
6 insurance program funded percentage’ for  
7 a fiscal year means the ratio (expressed as  
8 a percentage) of—

9 “(I) the value of all assets held  
10 by the corporation in any trust or re-  
11 volving fund on the last day of such  
12 fiscal year available for the payment  
13 of basic benefits guaranteed under  
14 section 4022, to

15 “(II) the present value (as deter-  
16 mined in accordance with section  
17 303(h) without regard to paragraph  
18 (2)(C)(iv)) of the liabilities of the cor-  
19 poration attributable to such guaran-  
20 teed benefits on the last day of such  
21 fiscal year.

22 “(iv) UNFUNDED VESTED BENE-  
23 FITS.—The term ‘unfunded vested bene-  
24 fits’ has the meaning given such term in  
25 paragraph (3)(E)(iii), except that with re-

1                   spect to a CSEC plan (as defined in sec-  
2                   tion 210(f)), such term means the excess  
3                   of—

4                                 “(I) the plan’s funding liability  
5                                 (as defined in section 306(j)(5)(C)),  
6                                 determined by only taking into ac-  
7                                 count vested benefits, over

8                                 “(II) the fair market value of  
9                                 plan assets for the plan year which  
10                                 are held by the plan on the valuation  
11                                 date.”.

12           (b) INDIVIDUALS PARTICIPATING IN MORE THAN  
13 ONE PLAN.—Section 4006(a)(3)(B) of the Employee Re-  
14 tirement Income Security Act of 1974 (29 U.S.C.  
15 1306(a)(3)(B)) is amended by inserting “or paragraph  
16 (9)” after “subparagraph (A)(i)”.

17           (c) CONFORMING AMENDMENT.—Section  
18 4006(a)(3)(A) of the Employee Retirement Income Secu-  
19 rity Act of 1974 (29 U.S.C. 1306) is amended in the mat-  
20 ter preceding clause (i) by inserting “and paragraph (9)”  
21 after “subparagraph (C)”.

22           (d) EFFECTIVE DATE.—The amendments made by  
23 this shall apply with respect to plan years beginning after  
24 December 31, 2017.

1 **SEC. 3. CORRECTION OF THE BUDGET EFFECTS OF PRE-**  
2 **MIUM CHANGES.**

3 (a) IN GENERAL.—In the Senate and the House of  
4 Representatives, for purposes of determining points of  
5 order under the Congressional Budget Act of 1974 (2  
6 U.S.C. 621 et seq.) or any concurrent resolution on the  
7 budget, any provision that increases or decreases, or ex-  
8 tends the increase or decrease of, any premiums payable  
9 to the Pension Benefit Guaranty Corporation shall not be  
10 counted in estimating the level of budget authority, out-  
11 lays, or revenues—

12 (1) in the Senate, for any bill, joint resolution,  
13 amendment, amendment between the Houses, con-  
14 ference report, or motion; or

15 (2) in the House of Representatives, for any bill  
16 or joint resolution, or amendment thereto or con-  
17 ference report thereon.

18 (b) RULES OF SENATE AND HOUSE OF REPRESENT-  
19 ATIVES.—Congress adopts the provisions of this section—

20 (1) as an exercise of the rulemaking power of  
21 the Senate and the House of Representatives, re-  
22 spectively, and as such is deemed a part of the rules  
23 of each House, respectively, and supersede other  
24 rules only to the extent that they are inconsistent  
25 with such rules; and

1           (2) with full recognition of the constitutional  
2 right of either House to change the rules (so far as  
3 relating to the procedure of that House) at any time,  
4 in the same manner, and to the same extent as in  
5 the case of any other rule of that House.

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