

116TH CONGRESS  
1ST SESSION

# H. R. 4043

To amend the Internal Revenue Code of 1986 to protect employees in the building and construction industry who are participants in multiemployer plans, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2019

Mr. LUETKEMEYER (for himself, Mr. CLAY, Mr. BOST, Mr. RODNEY DAVIS of Illinois, and Mr. SHIMKUS) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and Labor, 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 Internal Revenue Code of 1986 to protect employees in the building and construction industry who are participants in multiemployer plans, 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 “Vested Employee Pen-  
5 sion Benefit Protection Act”.

1 **SEC. 2. MINIMUM AGE FOR DISTRIBUTIONS DURING WORK-**  
2 **ING RETIREMENT.**

3 (a) INTERNAL REVENUE CODE OF 1986.—Section  
4 401(a)(36) of the Internal Revenue Code of 1986 is  
5 amended to read as follows:

6 “(36) DISTRIBUTIONS DURING WORKING RE-  
7 TIREMENT.—

8 “(A) IN GENERAL.—A trust forming part  
9 of a pension plan shall not be treated as failing  
10 to constitute a qualified trust under this section  
11 solely because the plan provides that a distribu-  
12 tion may be made from such trust to an em-  
13 ployee who has attained age 62 and who is not  
14 separated from employment at the time of such  
15 distribution.

16 “(B) CERTAIN EMPLOYEES IN THE BUILD-  
17 ING AND CONSTRUCTION INDUSTRY.—

18 “(i) IN GENERAL.—In order to allow  
19 for unique conditions of employment in the  
20 building and construction industry, sub-  
21 paragraph (A) shall be applied by sub-  
22 stituting ‘age 55’ for ‘age 62’ in the case  
23 of a multiemployer plan described in sec-  
24 tion 4203(b)(1)(B)(i) of the Employee Re-  
25 tirement Income Security Act of 1974,  
26 with respect to individuals who were par-

1 participants in such plan on or before April  
2 30, 2013, if—

3 “(I) the trust to which subpara-  
4 graph (A) applies was in existence be-  
5 fore January 1, 1970,

6 “(II) before December 31, 2011,  
7 at a time when the plan provided that  
8 distributions may be made to an em-  
9 ployee who has attained age 55 and  
10 who is not separated from employ-  
11 ment at the time of such distribution,  
12 the plan received at least 1 written  
13 determination from the Internal Rev-  
14 enue Service that the trust to which  
15 subparagraph (A) applies constituted  
16 a qualified trust under this section,  
17 and

18 “(III) the plan provides that the  
19 benefit accrued on account of service  
20 performed after distributions begin  
21 under subparagraph (A) (as modified  
22 by subparagraph (B) without regard  
23 to this subclause) shall be treated and  
24 paid as a pension separate from the  
25 pension earned before such distribu-

1                    tions begin, and that payment of such  
2                    separate benefit shall not commence  
3                    until the employee attains the plan’s  
4                    normal retirement age.

5                    “(ii) SUSPENSION OF PAYMENTS IF  
6                    PLAN IN ENDANGERED OR CRITICAL STA-  
7                    TUS.—Clause (i) shall not apply to a mul-  
8                    tiemployer plan during the period for  
9                    which the multiemployer plan is in endan-  
10                    gered or critical status (as defined under  
11                    section 432) beginning after the first year  
12                    the plan is in either of such statuses and  
13                    ending with the first plan year for which  
14                    the plan is not in either of such statuses.”.

15                    (b) EMPLOYEE RETIREMENT INCOME SECURITY ACT  
16                    OF 1974.—Section 3(2)(A) of Employee Retirement In-  
17                    come Security Act of 1974 (29 U.S.C. 1002(2)(A)) is  
18                    amended by inserting before the period at the end the fol-  
19                    lowing: “(age 55 in the case of a plan to which section  
20                    401(a)(36)(B) of the Internal Revenue Code of 1986 ap-  
21                    plies)”.

22                    (c) EFFECTIVE DATE.—The amendments made by  
23                    this section shall apply to distributions made before, on,  
24                    or after the date of the enactment of this Act.

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