

118TH CONGRESS
2D SESSION

S. 3682

To amend the Employee Retirement Income Security Act of 1974 to clarify the obligation of the Pension Benefit Guarantee Corporation to reclaim any overpayment of special financial assistance payment under the American Rescue Plan Act of 2021, including amounts paid on behalf of a deceased participant or beneficiary, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 30, 2024

Mr. CASSIDY introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Employee Retirement Income Security Act of 1974 to clarify the obligation of the Pension Benefit Guarantee Corporation to reclaim any overpayment of special financial assistance payment under the American Rescue Plan Act of 2021, including amounts paid on behalf of a deceased participant or beneficiary, 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 “Ghost Handouts and
5 Overpayments Stop Today Act” or the “GHOST Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) The Pension Benefit Guaranty Corporation
4 has the authority and responsibility to recover tax-
5 payer funded benefits disbursed by the corporation
6 in error, including any amount disbursed to fund
7 benefits for participants or beneficiaries who are de-
8 ceased as of the date of the disbursement.

9 (2) The Pension Benefit Guaranty Corporation
10 is obligated to ensure, through strong accounting
11 processes and controls and using the resources avail-
12 able (and should follow procedures recommended by
13 the Office of the Inspector General and verify census
14 data for multiemployer plans that will receive or
15 have received special financial assistance), that tax-
16 payer money is not wasted.

17 (3) The Pension Benefit Guaranty Corporation
18 is obligated to audit, investigate, and resolve any
19 discrepancies in census data for all special financial
20 assistance plans, including through matching data
21 for participants and beneficiaries to data that re-
22 sides in the Social Security Administration's Death
23 Master File.

24 (4) Multiemployer plans are obligated to remit
25 to the Pension Benefit Guaranty Corporation, and
26 the corporation is obligated to take all steps nec-

1 essary to ensure full recovery of, the amount of any
2 special financial assistance payment made to a mul-
3 tiemployer plan as a result of an error and the
4 amount of any special financial assistance payment
5 attributable to any deceased participants or bene-
6 ficiaries, and the associated earnings thereon.

7 **SEC. 3. RECOVERY OF OVERPAYMENTS.**

8 (a) IN GENERAL.—Section 4262 of the Employee Re-
9 tirement Income Security Act of 1974 (29 U.S.C. 1104)
10 is amended by adding at the end the following:

11 “(o) RECOVERY.—

12 “(1) IN GENERAL.—If the corporation makes a
13 determination that an overpayment of special finan-
14 cial assistance, including an overpayment of special
15 financial assistance described in paragraph (2)(A),
16 was made under this section, the applicable multiem-
17 ployer plan (or a successor plan) shall pay, not later
18 than 30 days after the date of such determination,
19 to the corporation an amount equal to the total
20 amount of overpayment of special financial assist-
21 ance to the applicable multiemployer plan, adjusted
22 by the corporation for interest (using the interest
23 rate used in determining the amount of special fi-
24 nancial assistance under subsection (e)(2)) for the
25 period beginning on the date on which the special fi-

1 nancial assistance was provided to such plan and
2 ending on the date that such plan makes the pay-
3 ment required under this paragraph.

4 “(2) RECOVERY IN CASE OF DECEASED PARTIC-
5 IPANT OR BENEFICIARY.—

6 “(A) DETERMINATION.—Not later than 45
7 days after the later of the date on which an
8 audit conducted under subparagraph (B) is
9 complete or the date on which the hearing de-
10 scribed in subparagraph (C) occurs, the cor-
11 poration shall make a determination of the total
12 amount of special financial assistance paid to
13 the applicable multiemployer plan on behalf of
14 participants or beneficiaries determined to be
15 deceased, which shall be deemed an overpay-
16 ment of special financial assistance.

17 “(B) AUDIT.—

18 “(i) IN GENERAL.—Not later than 6
19 months after the date of enactment of this
20 subsection or, in the case of an eligible
21 multiemployer plan to which special finan-
22 cial assistance is provided under this sec-
23 tion after the date of enactment of this
24 subsection, 6 months after the date on
25 which such assistance is provided, the cor-

1 poration shall audit the census data main-
2 tained by an eligible multiemployer plan to
3 which such assistance was provided to de-
4 termine—

5 “(I) whether any of such assist-
6 ance was provided on behalf of a par-
7 ticipant or beneficiary who was de-
8 ceased as of the date such assistance
9 was provided; and

10 “(II) the total amount of special
11 financial assistance paid to such plan
12 on behalf of participants or bene-
13 ficiaries described in subclause (I).

14 “(ii) PROCESS.—In conducting an
15 audit under clause (i), the corporation
16 shall—

17 “(I) follow a process rec-
18 ommended by the Office of the In-
19 spector General of the Pension Ben-
20 efit Guaranty Corporation, including
21 the recommendations in the white
22 paper issued by such Office entitled
23 ‘Detecting Fraud and Improper Pay-
24 ments Involving Deceased Partici-
25 pants’ and dated March 9, 2018; and

1 “(II) match census data with the
2 information on records of death main-
3 tained by the Social Security Adminis-
4 tration under section 205(r) of the
5 Social Security Act (42 U.S.C.
6 405(r)).

7 “(iii) REVIEW.—The Office of the In-
8 specter General of the Pension Benefit
9 Guaranty Corporation shall review an
10 audit conducted under clause (i) prior to
11 such audit being provided to an eligible
12 multiemployer plan under paragraph (C).

13 “(C) HEARING.—

14 “(i) NOTICE.—Not later than 10 days
15 after the completion of an audit under sub-
16 paragraph (B), the corporation shall pro-
17 vide to the eligible multiemployer plan (or
18 a successor plan) the following informa-
19 tion:

20 “(I) A list of participants or
21 beneficiaries on behalf of whom assist-
22 ance was provided as described in sub-
23 paragraph (B)(i)(I).

1 “(II) The total amount of finan-
2 cial assistance paid as described in
3 subparagraph (B)(i)(II).

4 “(ii) HEARING.—The corporation
5 shall provide an eligible employer plan with
6 the opportunity for a hearing—

7 “(I) which shall, unless extenu-
8 ating circumstances (as determined by
9 the corporation) exist, occur not later
10 than 60 days after the information de-
11 scribed in clause (i) is provided to the
12 plan; and

13 “(II) at which such plan may
14 demonstrate that a participant or ben-
15 eficiary is alive.

16 “(3) TRANSFER TO GENERAL FUND.—Any
17 amount paid under paragraph (1), or any other pay-
18 ment that represents a voluntary return of a special
19 financial assistance payment, shall be transferred to
20 the general fund of the Treasury.

21 “(p) PAYMENTS FROM APPLICABLE MULTIEM-
22 PLOYER PLANS.—The corporation shall accept any pay-
23 ment (including a payment required under subsection
24 (o)(1)) made to such corporation by an eligible multiem-
25 ployer plan.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to overpayments of
3 special financial assistance under section 4262 of the Em-
4 ployment Retirement Income Security Act (29 U.S.C.
5 1104) occurring before, on, or after the date of enactment
6 of this Act.

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