

113TH CONGRESS  
2D SESSION

# S. 2511

To amend the Employee Retirement Income Security Act of 1974 to clarify the definition of substantial cessation of operations.

---

IN THE SENATE OF THE UNITED STATES

JUNE 19, 2014

Mr. HARKIN (for himself and Mr. ALEXANDER) 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 definition of substantial cessation of operations.

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. SUBSTANTIAL CESSATION OF OPERATIONS.**

4 (a) IN GENERAL.—Subsection (e) of section 4062 of  
5 the Employee Retirement Income Security Act of 1974  
6 (29 U.S.C. 1362) is amended—

7 (1) by striking “OPERATIONS.—If an employer”  
8 and inserting “OPERATIONS.—

9 “(1) IN GENERAL.—If an employer”; and

1 (2) by adding at the end the following:

2 “(2) SUBSTANTIAL CESSATION OF OPER-  
3 ATIONS.—An employer shall not be treated as hav-  
4 ing a cessation described in paragraph (1) unless—

5 “(A) all operations at a facility in a loca-  
6 tion are ceased, and—

7 “(i) such cessation is reasonably ex-  
8 pected to be permanent;

9 “(ii) no portion of such operations is  
10 moved to another facility at a different lo-  
11 cation;

12 “(iii) no portion of such operations is  
13 assumed by or otherwise transferred to an-  
14 other employer; and

15 “(iv) no other operations are reason-  
16 ably expected to be maintained at such fa-  
17 cility; and

18 “(B) as a result of the cessation described  
19 in subparagraph (A), more than 20 percent of  
20 the employees of the employer have a termi-  
21 nation of employment that is reasonably ex-  
22 pected to be permanent.

23 For purposes of subparagraph (B), all employees  
24 treated as employed by a single employer under sec-

1        tions 210 (c) and (d) shall be treated as employees  
2        of the employer.”.

3        (b) DIRECTION TO THE CORPORATION.—The Pen-  
4        sion Benefit Guaranty Corporation shall not take any en-  
5        forcement, administrative, or other action pursuant to sec-  
6        tion 4062(e) of the Employee Retirement Income Security  
7        Act of 1974 that is inconsistent with subparagraph (A)  
8        of section 4062(e)(2) of such Act, as added by subsection  
9        (a), without regard to whether the action relates to a ces-  
10       sation or other event that occurs before or after the date  
11       of enactment of this Act, unless such action is in connec-  
12       tion with a settlement agreement in place before June 1,  
13       2014.

○