



(Original Signature of Member)

118TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

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.

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IN THE HOUSE OF REPRESENTATIVES

Ms. FOXX introduced the following bill; which was referred to the Committee  
on \_\_\_\_\_

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**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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Ghost Handouts and  
3 Overpayments Stop Today Act” or the “GHOST Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

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

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

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

1           (4) Multiemployer plans are obligated to remit  
2           to the Pension Benefit Guaranty Corporation, and  
3           the corporation is obligated to take all steps nec-  
4           essary to ensure full recovery of, the amount of any  
5           special financial assistance payment made to a mul-  
6           tiemployer plan as a result of an error and the  
7           amount of any special financial assistance payment  
8           attributable to any deceased participants or bene-  
9           ficiaries, and the associated earnings thereon.

10 **SEC. 3. RECOVERY OF OVERPAYMENTS.**

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

14           “(o) RECOVERY.—

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

1 rate used in determining the amount of special fi-  
2 nancial assistance under subsection (e)(2)) for the  
3 period beginning on the date on which the special fi-  
4 nancial assistance was provided to such plan and  
5 ending on the date that such plan makes the pay-  
6 ment required under this paragraph.

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

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

20 “(B) AUDIT.—

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

1                   tion after the date of enactment of this  
2                   subsection, 6 months after the date on  
3                   which such assistance is provided, the cor-  
4                   poration shall audit the census data main-  
5                   tained by an eligible multiemployer plan to  
6                   which such assistance was provided to de-  
7                   termine—

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

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

17                  “(ii) PROCESS.—In conducting an  
18                  audit under clause (i), the corporation  
19                  shall—

20                  “(I) follow a process rec-  
21                  ommended by the Office of the In-  
22                  spector General of the Pension Ben-  
23                  efit Guaranty Corporation, including  
24                  the recommendations in the white  
25                  paper issued by such Office entitled

1                   ‘Detecting Fraud and Improper Pay-  
2                   ments Involving Deceased Partici-  
3                   pants’ and dated March 9, 2018; and

4                   “(II) match census data with the  
5                   information on records of death main-  
6                   tained by the Social Security Adminis-  
7                   tration under section 205(r) of the  
8                   Social Security Act (42 U.S.C.  
9                   405(r)).

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

16                  “(C) HEARING.—

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

23                  “(I) A list of participants or  
24                  beneficiaries on behalf of whom assist-

1                   ance was provided as described in sub-  
2                   paragraph (B)(i)(I).

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

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

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

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

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

23                  “(p) PAYMENTS FROM APPLICABLE MULTIEM-  
24                  PLOYER PLANS.—The corporation shall accept any pay-  
25                  ment (including a payment required under subsection

1 (o)(1)) made to such corporation by an eligible multiem-  
2 ployer plan.”.

3 (b) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply with respect to overpayments of  
5 special financial assistance under section 4262 of the Em-  
6 ployment Retirement Income Security Act (29 U.S.C.  
7 1104) occurring before, on, or after the date of enactment  
8 of this Act.