
IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2011

Mr. KIND (for himself, Mr. PETRI, and Mr. McDERMOTT) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, 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.

A BILL


Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Pension Technical Modifications Act”.

SEC. 2. ELECTIVE EXCLUSION OF PLAN INVESTMENT EXPENSES IN DETERMINING TARGET NORMAL COST.

(a) Amendment to ERISA.—Section 303(b)(1)(A)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(b)(1)(A)(ii)) is amended by inserting “(excluding, to the extent elected by the plan sponsor, plan investment expenses)” after “plan year”.

(b) Amendment to 1986 Code.—Clause (ii) of section 430(b)(1)(A) of the Internal Revenue Code of 1986 is amended by inserting “(excluding, to the extent elected by the plan sponsor, plan investment expenses)” after “plan year”.

(c) Effective Date.—

(1) In general.—The amendments made by subsections (a) and (b) shall take effect as if included in sections 102 and 112, respectively, of the Pension Protection Act of 2006.

(2) Special rule for closed plan years.— In the case of a plan year ending before the date of the enactment of this Act, any election pursuant to the amendments made by this section with respect
to such plan year must be made not later than 180
days after such date.

SEC. 3. DEFINITION OF ELIGIBLE PLAN YEAR.

(a) Amendment to ERISA.—Clause (v) of section
303(c)(2)(D) of the Employee Retirement Income Secu-
rit y Act of 1974 (29 U.S.C. 1083(e)(2)(D)), as added by
section 201(a)(1) of the Preservation of Access to Care
for Medicare Beneficiaries and Pension Relief Act of 2010,
is amended—

(1) by striking “on or after the date of the en-
actment of this subparagraph” and inserting “on or
after June 25, 2010 (March 10, 2010, in the case
of an eligible plan)”, and

(2) by adding at the end the following new sen-
tence: “For purposes of the preceding sentence, a
plan shall be treated as an eligible plan only if, as
of the date of the election with respect to the plan
under clause (i)—

“(A) the plan sponsor is not a debtor in a
case under title 11, United States Code, or
similar Federal or State law,

“(B) there are no unpaid minimum re-
quired contributions with respect to the plan for
purposes of section 4971 of the Internal Rev-

(b) AMENDMENT TO 1986 CODE.—Clause (v) of section 430(c)(2)(D) of the Internal Revenue Code of 1986, as added by section 201(b)(1) of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010, is amended—

(1) by striking “on or after the date of the enactment of this subparagraph” and inserting “on or after June 25, 2010 (March 10, 2010, in the case of an eligible plan)”, and

(2) by adding at the end the following new sentence: “For purposes of the preceding sentence, a plan shall be treated as an eligible plan only if, as of the date of the election with respect to the plan under clause (i) —

“(A) the plan sponsor is not a debtor in a case under title 11, United States Code, or similar Federal or State law,
“(B) there are no unpaid minimum required contributions with respect to the plan for purposes of section 4971 (imposing an excise tax when minimum required contributions are not paid by the due date for the plan year),

“(C) there are no outstanding liens in favor of the plan under subsection (k), and

“(D) the plan sponsor has not initiated a distress termination of the plan under section 4041 of the Employee Retirement Income Security Act of 1974.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by the provisions of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 to which the amendments relate.

SEC. 4. ELIGIBLE CHARITY PLANS.

(a) DEFINITION OF ELIGIBLE CHARITY PLANS.—

Section 104(d) of the Pension Protection Act of 2006, as added by section 202(b) of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010, is amended—

(1) by inserting “, if the plan sponsor so elects,” after “shall”, and
(2) by adding at the end the following: “Any election made under the preceding sentence shall be made at such time and in such form and manner as shall be prescribed by the Secretary of the Treasury and, for elections with respect to plan years beginning more than 1 year after the date of the enactment of the Pension Technical Modifications Act, may be revoked only with the consent of the Secretary.”.

(b) Application of New Rules to Eligible Charity Plans.—Paragraph (2) of section 202(c) of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 is amended to read as follows:

“(2) Eligible Charity Plans.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 2010, except that a plan sponsor may elect to apply such amendments to plan years beginning after an earlier date.”.

(c) Effective Date.—The amendments made by this section shall take effect as if included in the provisions of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 to which they relate.
SEC. 5. SUSPENSION OF CERTAIN FUNDING LEVEL LIMITATIONS.

(a) LIMITATIONS ON BENEFIT ACCRUALS.—Section 203 of the Worker, Retiree, and Employer Recovery Act of 2008 is amended—

(1) by striking “the first plan year beginning during the period beginning on October 1, 2008, and ending on September 30, 2009” and inserting “any plan year beginning during the period beginning on October 1, 2008, and ending on December 31, 2011”;

(2) by striking “substituting” and all that follows through “for such plan year” and inserting “substituting for such percentage the plan’s adjusted funding target attainment percentage for the last plan year ending before September 30, 2009,”; and

(3) by striking “for the preceding plan year is greater” and inserting “for such last plan year is greater”.

(b) SOCIAL SECURITY LEVEL-INCOME OPTIONS.—

(1) AMENDMENT TO ERISA.—Section 206(g)(3)(E) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new sentence: “For purposes of applying clause (i) payments under a social security
leveling option shall be treated as not in excess of
the monthly amount paid under a single life annuity
(plus an amount not in excess of a social security
supplement described in the last sentence of section
204(b)(1)(G)).”.

(2) Amendment to 1986 Code.—Section
436(d)(5) of the Internal Revenue Code of 1986 is
amended by adding at the end the following new
sentence: “For purposes of applying subparagraph
(A) payments under a social security leveling option
shall be treated as not in excess of the monthly
amount paid under a single life annuity (plus an
amount not in excess of a social security supplement
described in the last sentence of section
411(a)(9)).”.

(3) Effective Date.—

(A) In General.—The amendments made
by this subsection shall apply to annuity pay-
ments the annuity starting date for which oc-
curs on or after January 1, 2012.

(B) Permitted Application.—A plan
shall not be treated as failing to meet the re-
quirements of sections 206(g) of the Employee
Retirement Income Security Act of 1974 (as
amended by this subsection) and section 436(d)
of the Internal Revenue Code of 1986 (as so amended) if the plan sponsor elects to apply the amendments made by this subsection to payments the annuity starting date for which occurs during elected months prior to January 1, 2012.

(c) Repeal of Related Provisions.—The provisions of, and the amendments made by, section 203 of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 are repealed and the Employee Retirement Income Security Act of 1974, the Internal Revenue Code of 1986, and the Worker, Retiree, and Employer Recovery Act of 2008 (Public Law 110–458; 122 Stat. 5118) shall be applied as if such section had never been enacted.

(d) Plans Maintained by Charities.—


(2) Amendment to 1986 Code.—Clause (i) of section 430(f)(3)(D) of the Internal Revenue Code
of 1986 is amended by striking “September 1, 2011” and inserting “January 1, 2012”.

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