

[DISCUSSION DRAFT]

AUGUST 25, 2009

111TH CONGRESS
1ST SESSION

H. R. _____

To **[to be supplied]**.

IN THE HOUSE OF REPRESENTATIVES

Mr. POMEROY introduced the following bill; which was referred to the
Committee on _____

A BILL

To **[to be supplied]**.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SEC. 1. SHORT TITLE, ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “_____ Act of 2009”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title, etc.

TITLE I—SINGLE EMPLOYER PLANS

Sec. 101. Extended period for single-employer defined benefit plans to amortize
certain shortfall amortization bases.

1 amounts described in clause (ii) or clause
2 (iii), as applicable, determined pursuant to
3 clause (iv).

4 “(ii) 7-YEAR AMORTIZATION.—

5 “(I) IN GENERAL.—The shortfall
6 amortization installments described in
7 this clause are—

8 “(aa) in the case of the last
9 7 plan years in the 9-plan-year
10 period beginning with the appli-
11 cable plan year, the amounts nec-
12 essary to amortize the shortfall
13 amortization base of the plan for
14 the applicable plan year in level
15 annual installments over such
16 last 7 plan years, and

17 “(bb) in the case of the first
18 2 plan years in such 9-plan-year
19 period, interest on such shortfall
20 amortization base (determined
21 using the effective rate of inter-
22 est for the plan for the plan
23 year).

24 “(II) SHORTFALL AMORTIZATION
25 INSTALLMENT.—The shortfall amorti-

1 zation installment for any plan year in
2 the 9-plan-year period under this
3 clause with respect to such shortfall
4 amortization base is the annual in-
5 stallment determined under this
6 clause for that year for that base.

7 “(III) MINIMUM REQUIRED CON-
8 TRIBUTION FOR FIRST 2 YEARS.—
9 Notwithstanding the preceding provi-
10 sions of this clause, the minimum re-
11 quired contribution for the two plan
12 years described in subclause (I)(bb)
13 shall be increased to the extent nec-
14 essary so that the minimum required
15 contribution for such plan year is at
16 least equal to the applicable percent-
17 age of the minimum required con-
18 tribution for the plan year preceding
19 the first applicable plan year. If the
20 minimum required contribution is in-
21 creased by reason of the preceding
22 sentence, the shortfall amortization
23 installments with respect to the short-
24 fall amortization base for any applica-
25 ble plan year shall be reduced to take

1 such increase into account, pursuant
 2 to rules issued by the Secretary of the
 3 Treasury, but only if the shortfall am-
 4 ortization installments with respect to
 5 the shortfall amortization base for
 6 such applicable plan year are deter-
 7 mined under clause (i). For purposes
 8 of this clause, the applicable percent-
 9 age shall be determined as follows:

“For the:	The applicable percentage is:
First applicable plan year	105
Second applicable plan year	110
Plan year following the second applicable plan year	115

10 “(iii) 15-YEAR AMORTIZATION.—The
 11 shortfall amortization installments de-
 12 scribed in this clause are the amounts nec-
 13 essary to amortize the shortfall amortiza-
 14 tion base of the plan for the applicable
 15 plan year in level annual installments over
 16 15 years. The shortfall amortization in-
 17 stallments for any plan year in the 15-
 18 plan-year period under this clause is the
 19 annual installment determined under this
 20 clause for that year for that base.

21 “(iv) ELECTION.—The plan sponsor
 22 may, with respect to a plan, elect whether
 23 to determine shortfall amortization install-

1 ments under clause (ii), clause (iii), or
2 without regard to this subparagraph. Such
3 election shall be made at such times, and
4 in such form and manner, as shall be pre-
5 scribed by the Secretary of the Treasury,
6 and may be revoked only with the consent
7 of the Secretary of the Treasury. In the
8 absence of a timely election to determine
9 shortfall amortization installments under
10 such clause (ii) or clause (iii), such install-
11 ments shall be determined without regard
12 to this subparagraph.

13 “(E) FAILURE TO MAINTAIN ACTIVE
14 PLAN.—

15 “(i) 2 AND 7 RULE.—If the shortfall
16 amortization installments with respect to a
17 shortfall amortization base for an applica-
18 ble plan year are determined under sub-
19 paragraph (D)(ii), the plan must remain
20 an active plan for the 3 subsequent plan
21 years. If such plan fails to be an active
22 plan in any such plan year, the minimum
23 required contribution for the first plan
24 year with respect to which a failure occurs
25 shall be increased by all amounts by which

1 the minimum required contribution for the
2 current plan year or any prior plan year
3 has been reduced by the application of sub-
4 paragraph (D), plus interest on such
5 amounts at the effective rate of interest for
6 the plan for the plan year for which the in-
7 crease applies. However, any such increase
8 in the minimum required contribution shall
9 not require a contribution to the extent
10 that the contribution would cause the value
11 of plan assets for the plan year to exceed
12 the funding target of the plan for the plan
13 year (determined without regard to sub-
14 section (i)(1)). If the minimum required
15 contribution is increased by reason of this
16 clause, the shortfall amortization install-
17 ments with respect to the shortfall amorti-
18 zation base for any applicable plan year
19 shall be reduced to take such increase into
20 account, pursuant to rules issued by the
21 Secretary of the Treasury, but only if the
22 shortfall amortization installments with re-
23 spect to the shortfall amortization base for
24 such applicable plan year are determined
25 under subparagraph (D)(i).

1 “(ii) 15-YEAR RULE.—If the shortfall
2 amortization installments with respect to a
3 shortfall amortization base for an applica-
4 ble plan year are determined under sub-
5 paragraph (D)(iii), the plan must remain
6 an active plan for the 14 subsequent plan
7 years. If such plan fails to be an active
8 plan in any such plan year, the shortfall
9 amortization base, reduced by the principal
10 portion of prior shortfall amortization in-
11 stallments relating to that base, shall be
12 amortized over a number of years equal to
13 the lesser of—

14 “(I) 7, or

15 “(II) the excess of 15 over the
16 number of shortfall amortization in-
17 stallments paid with respect to that
18 base.

19 “(iii) SPECIAL RULE.—In the case of
20 an applicable plan year that ends before
21 July 1, 2009, the plan sponsor may elect
22 not to have the active plan requirement
23 apply for such plan year. If such election
24 is made—

1 “(I) clause (i) shall be applied by
2 substituting ‘4 subsequent plan years’
3 for ‘3 subsequent plan years’, and

4 “(II) clause (ii) shall be applied
5 by substituting ‘6’ for ‘7’ and by sub-
6 stituting ‘14’ for ‘15’.

7 Such election shall be made at such times,
8 and in such form and manner, as shall be
9 prescribed by the Secretary of the Treas-
10 ury, and may be revoked only with consent
11 of the Secretary of the Treasury.

12 “(F) APPLICABLE PLAN YEAR.—For pur-
13 poses of this paragraph, the term ‘applicable
14 plan year’ means—

15 “(i) except as provided in clauses (ii)
16 and (iii), any plan year beginning in 2009
17 or 2010,

18 “(ii) in the case of a plan with a plan
19 year beginning after October 31 and before
20 January 1, any plan year beginning in
21 2008 or 2009, and

22 “(iii) in the case of a plan for which
23 the valuation date is not the first day of
24 the plan year, any plan year beginning in
25 2008 or 2009.

1 “(G) ACTIVE PLAN.—

2 “(i) IN GENERAL.—For purposes of
3 this paragraph, the term ‘active plan’
4 means a defined benefit plan that is de-
5 scribed in clause (ii), (iii), or (iv). A de-
6 fined benefit plan may satisfy different
7 clauses in different years. Notwithstanding
8 clause (ii), (iii), or (iv), a defined benefit
9 plan is not an active plan if an election
10 under section 402(a)(1) of the Pension
11 Protection Act of 2006 is in effect with re-
12 spect to such plan, or if the plan is de-
13 scribed under rules prescribed by the Sec-
14 retary of the Treasury designed to prevent
15 evasion of the purposes of this subpara-
16 graph.

17 “(ii) DEFINED BENEFIT PLAN.—

18 “(I) IN GENERAL.—A defined
19 benefit plan is described in this clause
20 if minimum benefit accruals are pro-
21 vided on behalf of all employees who
22 have satisfied the plan’s age and serv-
23 ice requirements and who would, but
24 for any prior amendment ceasing ac-

1 cruals, be eligible for an accrual under
2 the plan.

3 “(II) SPECIAL RULE REGARDING
4 MINIMUM BENEFIT ACCRUALS.—For
5 purposes of this clause, the employees
6 described in this clause shall be treat-
7 ed as receiving minimum benefit ac-
8 cruals for a plan year if all such em-
9 ployees are accruing a benefit and—

10 “(aa) the rate of benefit ac-
11 crual for any such employee is
12 not less than the greater of—

13 “(AA) the rate of ben-
14 efit accrual that would have
15 been applied to the employee
16 under the benefit formula in
17 effect on July 1, 2009, dis-
18 regarding any amendments
19 to the plan adopted after
20 June 30, 2009, or

21 “(BB) the rate of ben-
22 efit accrual that would have
23 applied to the employee
24 under the benefit formula in
25 effect as of the last date

1 prior to the effective date of
2 any plan amendment adopt-
3 ed prior to July 1, 2009
4 that ceased providing benefit
5 accruals based on additional
6 service credit with respect to
7 such employee, or
8 “(bb) the target normal cost
9 (without regard to plan adminis-
10 trative expenses) for such plan
11 year with respect to such employ-
12 ees is at least 3 percent of the
13 aggregate compensation (as de-
14 fined in section 415(c)(3) of the
15 Internal Revenue Code of 1986)
16 of such employees for such plan
17 year. Solely for purposes of this
18 paragraph, target normal cost
19 shall be determined by using 5
20 percent in lieu of the interest
21 rate applicable under subsection
22 (h) and by using the mortality
23 tables described in subsection
24 (h)(3)(A).

1 “(iii) DEFINED CONTRIBUTION
2 PLAN.—

3 “(I) IN GENERAL.—A defined
4 benefit plan is described in this clause
5 if—

6 “(aa) the defined benefit
7 plan satisfies clause (ii) except
8 with respect to employees whose
9 failure to accrue a minimum ben-
10 efit is attributable to a plan
11 amendment adopted prior to July
12 1, 2009, and

13 “(bb) the plan sponsor (or
14 any member of such sponsor’s
15 controlled group) maintains a de-
16 fined contribution plan under
17 which allocations are made on be-
18 half of each employee whose fail-
19 ure to accrue a benefit under the
20 defined benefit plan causes the
21 defined benefit plan not to be de-
22 scribed in clause (ii).

23 “(II) MINIMUM ALLOCATIONS.—
24 Such allocations shall not be less than
25 3 percent of an employee’s compensa-

1 tion (as determined in accordance
2 with section 414(s) of the Internal
3 Revenue Code of 1986). A defined
4 contribution plan shall not fail to sat-
5 isfy the requirements of this clause
6 solely by reason of the failure to make
7 allocations on behalf of one or more
8 highly compensated employees (as de-
9 fined in section 414(q) of the Internal
10 Revenue Code of 1986).

11 “(III) ALLOCATIONS TAKEN INTO
12 ACCOUNT.—For purposes of this
13 clause, only the following types of al-
14 locations may be taken into account:

15 “(aa) Employer contribu-
16 tions or forfeitures allocated
17 without regard to whether an em-
18 ployee makes an elective con-
19 tribution or an employee con-
20 tribution.

21 “(bb) In the case of the first
22 plan year ending after June 30,
23 2009, matching contributions (as
24 defined in section 401(m)(4)(A)

1 of the Internal Revenue Code of
2 1986).

3 “(iv) NONQUALIFIED PLAN.—

4 “(I) IN GENERAL.—A defined
5 benefit plan is described in this clause
6 if no designated employee accrues any
7 new benefits for the plan year under
8 any nonqualified deferred compensa-
9 tion plan (as defined in section
10 409A(d) of the Internal Revenue Code
11 of 1986) maintained by the sponsor of
12 the defined benefit plan or by any
13 member of such sponsor’s controlled
14 group.

15 “(II) DESIGNATED EMPLOYEE.—
16 For the purposes of this clause, the
17 term ‘designated employee’ means an
18 employee within a select group of
19 management or highly compensated
20 employees, as described in section
21 301(a)(3).

22 “(III) REVOCATION OF CERTAIN
23 ELECTIONS.—The Secretary of the
24 Treasury shall provide rules under
25 section 409A of the Internal Revenue

1 Code of 1986 under which elections to
2 defer compensation made prior to the
3 date of enactment of this clause may
4 be revoked by an employee within 180
5 days after the date of enactment of
6 this clause, but only to the extent
7 that, pursuant to this clause, such
8 elections could otherwise cause a fail-
9 ure of the employee to—

10 “(aa) earn compensation
11 under an arrangement that, but
12 for the election, is not a non-
13 qualified deferred compensation
14 plan (as defined in section
15 409A(d) of the Internal Revenue
16 Code of 1986), and

17 “(bb) earn compensation
18 that is not payable to the em-
19 ployee in another form or under
20 a different arrangement.

21 “(v) MULTIPLE EMPLOYER PLANS.—
22 In the case of a defined benefit plan de-
23 scribed in section 413(c)(4)(B) of the In-
24 ternal Revenue Code of 1986, such plan
25 shall be treated as an active plan if such

1 plan satisfies clause (ii), (iii), or (iv) with
2 respect to at least 85 percent of the em-
3 ployers participating in such plan. In ap-
4 plying the 85 percent requirement, dif-
5 ferent employers may satisfy different
6 clauses.

7 “(vi) CONTROLLED GROUP.—For pur-
8 poses of this paragraph, the term ‘con-
9 trolled group’ means all employers treated
10 as a single employer pursuant to sub-
11 sections (b) and (c) of section 414 of the
12 Internal Revenue Code of 1986.”.

13 (2) CONFORMING AMENDMENT.—Paragraph (1)
14 of section 303(c) of such Act is amended by striking
15 “the shortfall amortization bases for such plan year
16 and each of the 6 preceding plan years” and insert-
17 ing “any shortfall amortization base which has not
18 been fully amortized under this subsection”.

19 (b) AMENDMENTS TO IRC.—

20 (1) IN GENERAL.—Paragraph (2) of section
21 430(c) of the Internal Revenue Code of 1986 is
22 amended by adding at the end the following sub-
23 paragraphs:

24 “(D) SPECIAL RULE.—

1 “(i) IN GENERAL.—In the case of the
2 shortfall amortization base of an active
3 plan for any applicable plan year, the
4 shortfall amortization installments are the
5 amounts described in clause (ii) or clause
6 (iii), as applicable, determined pursuant to
7 clause (iv).

8 “(ii) 7-YEAR AMORTIZATION.—

9 “(I) IN GENERAL.—The shortfall
10 amortization installments described in
11 this clause are—

12 “(aa) in the case of the last
13 7 plan years in the 9-plan-year
14 period beginning with the appli-
15 cable plan year, the amounts nec-
16 essary to amortize the shortfall
17 amortization base of the plan for
18 the applicable plan year in level
19 annual installments over such
20 last 7 plan years, and

21 “(bb) in the case of the first
22 2 plan years in such 9-plan-year
23 period, interest on such shortfall
24 amortization base (determined
25 using the effective rate of inter-

1 est for the plan for the plan
2 year).

3 “(II) SHORTFALL AMORTIZATION
4 INSTALLMENT.—The shortfall amorti-
5 zation installment for any plan year in
6 the 9-plan-year period under this
7 clause with respect to such shortfall
8 amortization base is the annual in-
9 stallment determined under this
10 clause for that year for that base.

11 “(III) MINIMUM REQUIRED CON-
12 TRIBUTION FOR FIRST 2 YEARS.—
13 Notwithstanding the preceding provi-
14 sions of this clause, the minimum re-
15 quired contribution for the two plan
16 years described in subclause (I)(bb)
17 shall be increased to the extent nec-
18 essary so that the minimum required
19 contribution for such plan year is at
20 least equal to the applicable percent-
21 age of the minimum required con-
22 tribution for the plan year preceding
23 the first applicable plan year. If the
24 minimum required contribution is in-
25 creased by reason of the preceding

1 sentence, the shortfall amortization
 2 installments with respect to the short-
 3 fall amortization base for any applica-
 4 ble plan year shall be reduced to take
 5 such increase into account, pursuant
 6 to rules issued by the Secretary, but
 7 only if the shortfall amortization in-
 8 stallments with respect to the shortfall
 9 amortization base for such applicable
 10 plan year are determined under clause
 11 (i). For purposes of this clause, the
 12 applicable percentage shall be deter-
 13 mined as follows:

“For the:	The applicable percentage is:
First applicable plan year	105
Second applicable plan year	110
Plan year following the second applicable plan year	115

14 “(iii) 15-YEAR AMORTIZATION.—The
 15 shortfall amortization installments de-
 16 scribed in this clause are the amounts nec-
 17 essary to amortize the shortfall amortiza-
 18 tion base of the plan for the applicable
 19 plan year in level annual installments over
 20 15 years. The shortfall amortization in-
 21 stallments for any plan year in the 15-
 22 plan-year period under this clause is the

1 annual installment determined under this
2 clause for that year for that base.

3 “(iv) ELECTION.—The plan sponsor
4 may, with respect to a plan, elect whether
5 to determine shortfall amortization install-
6 ments under clause (ii), clause (iii), or
7 without regard to this subparagraph. Such
8 election shall be made at such times, and
9 in such form and manner, as shall be pre-
10 scribed by the Secretary, and may be re-
11 voked only with the consent of the Sec-
12 retary. In the absence of a timely election
13 to determine shortfall amortization install-
14 ments under such clause (ii) or clause (iii),
15 such installments shall be determined with-
16 out regard to this subparagraph.

17 “(E) FAILURE TO MAINTAIN ACTIVE
18 PLAN.—

19 “(i) 2 AND 7 RULE.—If the shortfall
20 amortization installments with respect to a
21 shortfall amortization base for an applica-
22 ble plan year are determined under sub-
23 paragraph (D)(ii), the plan must remain
24 an active plan for the 3 subsequent plan
25 years. If such plan fails to be an active

1 plan in any such plan year, the minimum
2 required contribution for the first plan
3 year with respect to which a failure occurs
4 shall be increased by all amounts by which
5 the minimum required contribution for the
6 current plan year or any prior plan year
7 has been reduced by the application of sub-
8 paragraph (D), plus interest on such
9 amounts at the effective rate of interest for
10 the plan for the plan year for which the in-
11 crease applies. However, any such increase
12 in the minimum required contribution shall
13 not require a contribution to the extent
14 that the contribution would cause the value
15 of plan assets for the plan year to exceed
16 the funding target of the plan for the plan
17 year (determined without regard to sub-
18 section (i)(1)). If the minimum required
19 contribution is increased by reason of this
20 clause, the shortfall amortization install-
21 ments with respect to the shortfall amorti-
22 zation base for any applicable plan year
23 shall be reduced to take such increase into
24 account, pursuant to rules issued by the
25 Secretary, but only if the shortfall amorti-

1 zation installments with respect to the
2 shortfall amortization base for such appli-
3 cable plan year are determined under sub-
4 paragraph (D)(i).

5 “(ii) 15-YEAR RULE.—If the shortfall
6 amortization installments with respect to a
7 shortfall amortization base for an applica-
8 ble plan year are determined under sub-
9 paragraph (D)(iii), the plan must remain
10 an active plan for the 14 subsequent plan
11 years. If such plan fails to be an active
12 plan in any such plan year, the shortfall
13 amortization base, reduced by the principal
14 portion of prior shortfall amortization in-
15 stallments relating to that base, shall be
16 amortized over a number of years equal to
17 the lesser of—

18 “(I) 7, or

19 “(II) the excess of 15 over the
20 number of shortfall amortization in-
21 stallments paid with respect to that
22 base.

23 “(iii) SPECIAL RULE.—In the case of
24 an applicable plan year that ends before
25 July 1, 2009, the plan sponsor may elect

1 not to have the active plan requirement
2 apply for such plan year. If such election
3 is made—

4 “(I) clause (i) shall be applied by
5 substituting ‘4 subsequent plan years’
6 for ‘3 subsequent plan years’, and

7 “(II) clause (ii) shall be applied
8 by substituting ‘6’ for ‘7’ and by sub-
9 stituting ‘14’ for ‘15’;

10 Such election shall be made at such times,
11 and in such form and manner, as shall be
12 prescribed by the Secretary, and may be
13 revoked only with consent of the Secretary.

14 “(F) APPLICABLE PLAN YEAR.—For pur-
15 poses of this paragraph, the term ‘applicable
16 plan year’ shall mean—

17 “(i) except as provided in clauses (ii)
18 and (iii), any plan year beginning in 2009
19 or 2010,

20 “(ii) in the case of a plan with a plan
21 year beginning after October 31 and before
22 January 1, any plan year beginning in
23 2008 or 2009, and

24 “(iii) in the case of a plan for which
25 the valuation date is not the first day of

1 the plan year, any plan year beginning in
2 2008 or 2009.

3 “(G) ACTIVE PLAN.—

4 “(i) IN GENERAL.—For purposes of
5 this paragraph, the term ‘active plan’
6 means a defined benefit plan that is de-
7 scribed in clause (ii), (iii), or (iv). A de-
8 fined benefit plan may satisfy different
9 clauses in different years. Notwithstanding
10 clause (ii), (iii), or (iv), a defined benefit
11 plan is not an active plan if an election
12 under section 402(a)(1) of the Pension
13 Protection Act of 2006 is in effect with re-
14 spect to such plan, or if the plan is de-
15 scribed under rules prescribed by the Sec-
16 retary designed to prevent evasion of the
17 purposes of this subparagraph.

18 “(ii) DEFINED BENEFIT PLAN.—

19 “(I) IN GENERAL.—A defined
20 benefit plan is described in this clause
21 if minimum benefit accruals are pro-
22 vided on behalf of all employees who
23 have satisfied the plan’s age and serv-
24 ice requirements and who would, but
25 for any prior amendment ceasing ac-

1 cruals, be eligible for an accrual under
2 the plan.

3 “(II) SPECIAL RULE REGARDING
4 MINIMUM BENEFIT ACCRUALS.—For
5 purposes of this clause, the employees
6 described in this clause shall be treat-
7 ed as receiving minimum benefit ac-
8 cruals for a plan year if all such em-
9 ployees are accruing a benefit and—

10 “(aa) the rate of benefit ac-
11 crual for any such employee is
12 not less than the greater of—

13 “(AA) the rate of ben-
14 efit accrual that would have
15 been applied to the employee
16 under the benefit formula in
17 effect on July 1, 2009, dis-
18 regarding any amendments
19 to the plan adopted after
20 June 30, 2009, or

21 “(BB) the rate of ben-
22 efit accrual that would have
23 applied to the employee
24 under the benefit formula in
25 effect as of the last date

1 prior to the effective date of
2 any plan amendment adopt-
3 ed prior to July 1, 2009,
4 that ceased providing benefit
5 accruals based on additional
6 service credit with respect to
7 such employee, or

8 “(bb) the target normal cost
9 (without regard to plan adminis-
10 trative expenses) for such plan
11 year with respect to such employ-
12 ees is at least 3 percent of the
13 aggregate compensation (as de-
14 fined in section 415(c)(3)) of
15 such employees for such plan
16 year.

17 Solely for purposes of this paragraph,
18 target normal cost shall be determined
19 by using 5 percent in lieu of the inter-
20 est rate applicable under subsection
21 (h) and by using the mortality tables
22 described in subsection (h)(3)(A).

23 “(iii) DEFINED CONTRIBUTION
24 PLAN.—

1 “(I) IN GENERAL.—A defined
2 benefit plan is described in this clause
3 if—

4 “(aa) the defined benefit
5 plan satisfies clause (ii) except
6 with respect to employees whose
7 failure to accrue a minimum ben-
8 efit is attributable to a plan
9 amendment adopted prior to July
10 1, 2009, and

11 “(bb) the plan sponsor (or
12 any member of such sponsor’s
13 controlled group) maintains a de-
14 fined contribution plan under
15 which allocations are made on be-
16 half of each employee whose fail-
17 ure to accrue a benefit under the
18 defined benefit plan causes the
19 defined benefit plan not to be de-
20 scribed in clause (ii).

21 “(II) MINIMUM ALLOCATIONS.—
22 Such allocations shall not be less than
23 3 percent of an employee’s compensa-
24 tion (as determined in accordance
25 with section 414(s)). A defined con-

1 tribution plan shall not fail to satisfy
2 the requirements of this clause solely
3 by reason of the failure to make allo-
4 cations on behalf of one or more high-
5 ly compensated employees (as defined
6 in section 414(q)).

7 “(III) ALLOCATIONS TAKEN INTO
8 ACCOUNT.—For purposes of this
9 clause, only the following types of al-
10 locations may be taken into account:

11 “(aa) Employer contribu-
12 tions or forfeitures allocated
13 without regard to whether an em-
14 ployee makes an elective con-
15 tribution or an employee con-
16 tribution.

17 “(bb) In the case of the first
18 plan year ending after June 30,
19 2009, matching contributions (as
20 defined in section 401(m)(4)(A)).

21 “(iv) NONQUALIFIED PLAN.—

22 “(I) IN GENERAL.—A defined
23 benefit plan is described in this clause
24 if no designated employee accrues any
25 new benefits for the plan year under

1 any nonqualified deferred compensa-
2 tion plan (as defined in section
3 409A(d)) maintained by the sponsor
4 of the defined benefit plan or by any
5 member of such sponsor's controlled
6 group.

7 “(II) DESIGNATED EMPLOYEE.—
8 For the purposes of this clause, the
9 term ‘designated employee’ means an
10 employee within a select group of
11 management or highly compensated
12 employees, as described in section
13 301(a)(3) of the Employee Retirement
14 Income Security Act of 1974.

15 “(III) REVOCATION OF CERTAIN
16 ELECTIONS.—The Secretary shall pro-
17 vide rules under section 409A under
18 which elections to defer compensation
19 made prior to the date of enactment
20 of this clause may be revoked by an
21 employee within 180 days after the
22 date of enactment of this clause, but
23 only to the extent that, pursuant to
24 this clause, such elections could other-

1 wise cause a failure of the employee
2 to—

3 “(aa) earn compensation
4 under an arrangement that, but
5 for the election, is not a non-
6 qualified deferred compensation
7 plan (as defined in section
8 409A(d)), and

9 “(bb) earn compensation
10 that is not payable to the em-
11 ployee in another form or under
12 a different arrangement.

13 “(v) MULTIPLE EMPLOYER PLANS.—
14 In the case of a defined benefit plan de-
15 scribed in section 413(c)(4)(B), such plan
16 shall be treated as an active plan if such
17 plan satisfies clause (ii), (iii), or (iv) with
18 respect to at least 85 percent of the em-
19 ployers participating in such plan. In ap-
20 plying the 85 percent requirement, dif-
21 ferent employers may satisfy different
22 clauses.

23 “(vi) CONTROLLED GROUP.—For pur-
24 poses of this paragraph, the term ‘con-
25 trolled group’ means all employers treated

1 as a single employer pursuant to sub-
2 sections (b) and (c) of section 414.”.

3 (2) CONFORMING AMENDMENT.—Paragraph (1)
4 of section 430(c) of such Code is amended by strik-
5 ing “the shortfall amortization bases for such plan
6 year and each of the 6 preceding plan years” and in-
7 sserting “any shortfall amortization base which has
8 not been fully amortized under this subsection”.

9 (3) AMENDMENT TO SECTION 409A.—Paragraph
10 (3) of section 409A(a) of the Internal Revenue Code
11 of 1986 is amended to read as follows:

12 “(3) ACCELERATION OF BENEFITS.—

13 “(A) IN GENERAL.—The requirements of
14 this paragraph are met if the plan does not per-
15 mit the acceleration of the time or schedule of
16 any payment under the plan, except as provided
17 in regulations by the Secretary. The require-
18 ments of this paragraph shall not be treated as
19 satisfied if the plan makes any payment de-
20 scribed in subparagraph (B) or (C).

21 “(B) EXCESS PAYMENTS FOR CERTAIN AD-
22 JUSTED FUNDING TARGET ATTAINMENT PER-
23 CENTAGES BY ACTIVE PLAN.—A payment is de-
24 scribed in this subparagraph if—

1 “(i) such payment is made during a
2 year in which a defined benefit plan is re-
3 quired to be an active plan under section
4 430(c)(2)(E) or section 107(e) of the Pen-
5 sion Protection Act of 2006, and such de-
6 fined benefit plan has not otherwise failed
7 to be an active plan in such plan year or
8 any prior plan year,

9 “(ii) such defined benefit plan is not
10 described in clause (ii) or (iii) of section
11 430(c)(2)(G) (modified, if applicable by
12 section 107(f)(5) of the Pension Protection
13 Act of 2006),

14 “(iii) such defined benefit plan is de-
15 scribed in paragraph (1) or (3) of section
16 436(d)(or would be if section 430(g)(3)(C)
17 did not apply), and

18 “(iv) the nonqualified deferred com-
19 pensation plan makes any payment in ex-
20 cess of the amounts that would be per-
21 mitted if the requirements of such para-
22 graph (1) or (3), as applicable, applied to
23 such plan.

24 In the case of a defined benefit plan to which
25 section 107 of the Pension Protection Act of

1 2006 applies, clauses (iii) and (iv) shall apply
2 based on rules similar to the rules of section
3 436, as prescribed by the Secretary, except that
4 the parenthetical regarding section
5 430(g)(3)(C) shall not apply. Under rules pre-
6 scribed by the Secretary, a plan shall not fail to
7 satisfy the requirements of this subsection sole-
8 ly by reason of a modification with respect to
9 the time and form of distribution that is con-
10 sistent with the requirements of this subpara-
11 graph.

12 “(C) EXCESS PAYMENTS BY REASON OF
13 CERTAIN INTEREST RATES AND MORTALITY AS-
14 SUMPTIONS.—A payment is described in this
15 subparagraph if—

16 “(i) the requirements of clauses (i)
17 and (ii) of subparagraph (B) are satisfied,
18 and

19 “(ii) the plan makes any payment in
20 excess of the amount that would be pay-
21 able if the plan used the interest rate and
22 mortality assumptions from the defined
23 benefit plan described in section 401(a)
24 that would create the smallest payments,
25 determined on a present value basis using

1 the interest rate and mortality assump-
2 tions described in section 430(h).

3 For purposes of this subparagraph, all defined
4 benefit plans maintained by the employer shall
5 be taken into account.”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to plan years beginning after De-
8 cember 31, 2007.

9 **SEC. 102. EXPANSION OF CORRIDOR WITHIN WHICH SIN-**
10 **GLE-EMPLOYER DEFINED BENEFIT PLANS**
11 **ARE ALLOWED TO AVERAGE ASSET VALUES.**

12 (a) AMENDMENT TO ERISA.—Paragraph (3) of sec-
13 tion 303(g) of the Employee Retirement Income Security
14 Act of 1974 is amended by adding at the end the following
15 new subparagraphs:

16 “(C) SPECIAL RULE.—In the case of any
17 applicable plan year, subparagraph (B)(iii) shall
18 be applied—

19 “(i) by substituting ‘80 percent’ for
20 ‘90 percent’, and

21 “(ii) by substituting ‘120 percent’ for
22 ‘110 percent’.

23 “(D) APPLICABLE PLAN YEAR.—For pur-
24 poses of this paragraph, the term ‘applicable
25 plan year’ means—

1 “(i) except as provided in clauses (ii)
2 and (iii), any plan year beginning in 2009
3 or 2010,

4 “(ii) in the case of a plan with a plan
5 year beginning after October 31 and before
6 January 1, any plan year beginning in
7 2008 or 2009, and

8 “(iii) in the case of a plan for which
9 the valuation date is not the first day of
10 the plan year, any plan year beginning in
11 2008 or 2009.”.

12 (b) AMENDMENT TO IRC.—Paragraph (3) of section
13 430(g) of the Internal Revenue Code of 1986 is amended
14 by adding at the end the following new subparagraphs:

15 “(C) SPECIAL RULE.—In the case of any
16 applicable plan year, subparagraph (B)(iii) shall
17 be applied—

18 “(i) by substituting ‘80 percent’ for
19 ‘90 percent’, and

20 “(ii) by substituting ‘120 percent’ for
21 ‘110 percent’.

22 “(D) APPLICABLE PLAN YEAR.—For pur-
23 poses of this paragraph, the term ‘applicable
24 plan year’ means—

1 “(i) except as provided in clauses (ii)
2 and (iii), any plan year beginning in 2009
3 or 2010,

4 “(ii) in the case of a plan with a plan
5 year beginning after October 31 and before
6 January 1, any plan year beginning in
7 2008 or 2009, and

8 “(iii) in the case of a plan for which
9 the valuation date is not the first day of
10 the plan year, any plan year beginning in
11 2008 or 2009.”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to plan years beginning after De-
14 cember 31, 2007.

15 **SEC. 103. ELECTION TO USE YIELD CURVE.**

16 (a) AMENDMENT TO ERISA.—The last sentence of
17 clause (ii) of section 303(h)(2)(D) of the Employee Retire-
18 ment Income Security Act of 1974 is amended to read
19 as follows: “Such election, once made, may be revoked only
20 with the consent of the Secretary, except that any election
21 in effect with respect to a plan year beginning in 2009
22 may be revoked, without the consent of the Secretary, for
23 the plan year beginning in 2010.”.

24 (b) AMENDMENT TO IRC.—The last sentence of
25 clause (ii) of section 430(h)(2)(D) of the Internal Revenue

1 Code of 1986 is amended to read as follows: “Such elec-
2 tion, once made, may be revoked only with the consent
3 of the Secretary, except that any election in effect with
4 respect to a plan year beginning in 2009 may be revoked,
5 without the consent of the Secretary, for the plan year
6 beginning in 2010.”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to plan years beginning after De-
9 cember 31, 2009.

10 **SEC. 104. LOOKBACK FOR BENEFIT ACCRUAL RESTRIC-**
11 **TION.**

12 (a) AMENDMENT TO ERISA.—Subsection (g) of sec-
13 tion 206 of the Employee Retirement Income Security Act
14 of 1974 is amended by adding at the end thereof the fol-
15 lowing:

16 “(12) SPECIAL RULE FOR CERTAIN YEARS.—
17 For purposes of paragraph (4) only—

18 “(A) IN GENERAL.—For plan years begin-
19 ning after October 31, 2008, and before No-
20 vember 1, 2010, the adjusted funding target at-
21 tainment percentage of a plan for purposes of
22 paragraph (4) shall be the greater of—

23 “(i) such percentage, as determined
24 without regard to this paragraph, or

1 “(ii) the adjusted funding target at-
2 tainment percentage for such plan for the
3 plan year beginning after October 31,
4 2007, and before November 1, 2008, as
5 determined under rules prescribed by the
6 Secretary of the Treasury.

7 “(B) SPECIAL RULE.—In the case of a
8 plan for which the valuation date is not the
9 first day of the plan year—

10 “(i) subparagraph (A) shall apply to
11 plan years beginning after December 31,
12 2007, and before January 1, 2010, and

13 “(ii) subparagraph (A)(ii) shall apply
14 based on the last plan year beginning be-
15 fore November 1, 2007, as determined
16 under rules prescribed by the Secretary of
17 the Treasury.”.

18 (b) AMENDMENT TO IRC.—Section 436 of the Inter-
19 nal Revenue Code of 1986 is amended by adding the fol-
20 lowing at the end thereof:

21 “(n) SPECIAL RULE FOR CERTAIN YEARS.—For pur-
22 poses of subsection (e) only—

23 “(1) IN GENERAL.—For plan years beginning
24 after October 31, 2008, and before November 1,
25 2010, the adjusted funding target attainment per-

1 centage of a plan for purposes of subsection (e) shall
2 be the greater of—

3 “(A) such percentage, as determined with-
4 out regard to this subsection, or

5 “(B) the adjusted funding target attain-
6 ment percentage for such plan for the plan year
7 beginning after October 31, 2007, and before
8 November 1, 2008, as determined under rules
9 prescribed by the Secretary.

10 “(2) SPECIAL RULE.—In the case of a plan for
11 which the valuation date is not the first day of the
12 plan year—

13 “(A) paragraph (1) shall apply to plan
14 years beginning after December 31, 2007, and
15 before January 1, 2010, and

16 “(B) paragraph (1)(B) shall apply based
17 on the last plan year beginning before Novem-
18 ber 1, 2007, as determined under rules pre-
19 scribed by the Secretary.”.

20 (c) INTERACTION WITH WRERA RULE.—Section
21 203 or the Worker, Retiree, and Employer Recovery Act
22 of 2008 shall apply to a plan for any plan year in lieu
23 of the amendments made by this section only to the extent
24 that such section produces a higher adjusted funding tar-
25 get attainment percentage for such plan for such year. In

1 all other cases, such section shall not be applicable to any
2 plan.

3 (d) EFFECTIVE DATE.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), the amendments made by this section
6 shall apply to plan years beginning after October 31,
7 2008.

8 (2) SPECIAL RULE.—In the case of a plan for
9 which the valuation date is not the first day of the
10 plan year, the amendments made by this section
11 shall apply to plan years beginning after December
12 31, 2007.

13 **SEC. 105. LOOKBACK FOR CREDIT BALANCE RULE.**

14 (a) AMENDMENT TO ERISA.—Paragraph (3) of sec-
15 tion 303(f) of the Employee Retirement Income Security
16 Act of 1974 is amended by adding the following at the
17 end thereof:

18 “(D) SPECIAL RULE FOR CERTAIN
19 YEARS.—

20 “(i) IN GENERAL.—For purposes of
21 applying subparagraph (C) for plan years
22 beginning after October 31, 2009, and be-
23 fore November 1, 2011, the ratio deter-
24 mined under such subparagraph for the

1 preceding plan year shall be the greater
2 of—

3 “(I) such ratio, as determined
4 without regard to this subparagraph,
5 or

6 “(II) the ratio for such plan for
7 the plan year beginning after October
8 31, 2007, and before November 1,
9 2008, as determined under rules pre-
10 scribed by the Secretary of the Treas-
11 ury.

12 “(ii) SPECIAL RULE.—In the case of a
13 plan for which the valuation date is not the
14 first day of the plan year—

15 “(I) clause (i) shall apply to plan
16 years beginning after December 31,
17 2008, and before January 1, 2011,
18 and

19 “(II) clause (i)(II) shall apply
20 based on the last plan year beginning
21 before November 1, 2007, as deter-
22 mined under rules prescribed by the
23 Secretary of the Treasury.”.

1 (b) AMENDMENT TO IRC.—Paragraph (3) of section
2 430(f) of the Internal Revenue Code of 1986 is amended
3 by adding the following at the end thereof:

4 “(D) SPECIAL RULE FOR CERTAIN
5 YEARS.—

6 “(i) IN GENERAL.—For purposes of
7 applying subparagraph (C) for plan years
8 beginning after October 31, 2009, and be-
9 fore November 1, 2011, the ratio deter-
10 mined under such subparagraph for the
11 preceding plan year of a plan shall be the
12 greater of—

13 “(I) such ratio, as determined
14 without regard to this subsection, or

15 “(II) the ratio for such plan for
16 the plan year beginning after October
17 31, 2007 and before November 1,
18 2008, as determined under rules pre-
19 scribed by the Secretary.

20 “(ii) SPECIAL RULE.—In the case of a
21 plan for which the valuation date is not the
22 first day of the plan year—

23 “(I) clause (i) shall apply to plan
24 years beginning after December 31,

1 2007, and before January 1, 2010,
2 and

3 “(II) clause (i)(II) shall apply
4 based on the last plan year beginning
5 before November 1, 2007, as deter-
6 mined under rules prescribed by the
7 Secretary.”.

8 (c) EFFECTIVE DATE.—

9 (1) IN GENERAL.—Except as provided in para-
10 graph (2), the amendments made by this section
11 shall apply to plan years beginning after October 31,
12 2009.

13 (2) SPECIAL RULE.—In the case of a plan for
14 which the valuation date is not the first day of the
15 plan year, the amendments made by this section
16 shall apply to plan years beginning after December
17 31, 2008.

18 **SEC. 106. CLARIFICATION OF TREATMENT OF EXPENSES.**

19 (a) AMENDMENTS TO ERISA.—

20 (1) IN GENERAL.—Clause (ii) of section
21 303(b)(1)(A) of the Employee Retirement Income
22 Security Act of 1974 is amended by striking “plan-
23 related expenses” and inserting “plan-related admin-
24 istrative expenses”.

1 (2) CONFORMING AMENDMENT.—Subclause (II)
2 of section 303(i)(2)(A)(i) of such Act is amended by
3 striking “plan-related expenses” and inserting
4 “plan-related administrative expenses”.

5 (b) AMENDMENTS TO IRC.—

6 (1) IN GENERAL.—Clause (ii) of section
7 430(b)(1)(A) of the Internal Revenue Code of 1986
8 is amended by striking “plan-related expenses” and
9 inserting “plan-related administrative expenses”.

10 (2) CONFORMING AMENDMENT.—Subclause (II)
11 of section 430(i)(2)(A)(i) of such Code is amended
12 by striking “plan-related expenses” and inserting
13 “plan-related administrative expenses”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall take effect as if included in paragraphs
16 (1)(A), (1)(F)(i), (2)(A), and (2)(F)(i) of section 101(b)
17 of the Worker, Retiree, and Employer Recovery Act of
18 2008.

19 **SEC. 107. INFORMATION REPORTING.**

20 (a) IN GENERAL.—Paragraph (1) of section 4010(b)
21 of the Employee Retirement Security Act of 1974 is
22 amended to read as follows:

23 “(1) the aggregate unfunded vested benefits at
24 the end of the preceding plan year (as determined
25 under section 4006(a)(3)(E)(iii)) of plans main-

1 tained by the contributing sponsor and the members
2 of its controlled group exceed \$100,000,000 (dis-
3 regarding plans with a funding target attainment
4 percentage (as defined in subsection (d)) of 90 per-
5 cent or higher);”.

6 (b) **FUNDING TARGET ATTAINMENT PERCENTAGE.**—
7 Subparagraph (B) of section 4010(d)(2) of such Act is
8 amended by striking “303(d)(2).” and inserting
9 “303(d)(2), without regard to the reduction under section
10 303(f)(4)(B).”.

11 (d) **CONFIDENTIALITY.**—Subsection (c) of section
12 4010 of such Act is amended—

13 (1) by striking “and no such information or
14 documentary material may be made public,” and

15 (2) by adding at the end the following: “All
16 parties, governmental or otherwise, receiving the in-
17 formation (or summary report of such information)
18 required to be provided under this section shall be
19 required to—

20 “(1) ensure that the information received will
21 be kept confidential,

22 “(2) use the information only for the purpose
23 for which it was requested, and

1 “(3) not further disclose the information except
2 to accomplish that purpose, unless a separate con-
3 sent from the taxpayer is obtained.

4 Such requirements shall not apply to information provided
5 under this section that is otherwise publicly available. The
6 corporation shall notify each person providing information
7 under this section of any public disclosure of such infor-
8 mation not permitted by this subsection within a reason-
9 able time of such disclosure becoming known to the cor-
10 poration. If any party, governmental or otherwise, makes
11 an unauthorized disclosure, the person required to provide
12 such information under this section may bring suit against
13 such party in Federal district court. No liability results
14 from a disclosure based upon a good faith, but erroneous,
15 interpretation of this section. Upon a finding of a liability,
16 such person can recover an amount not to exceed
17 \$100,000 per act of unauthorized disclosure plus reason-
18 able attorney fees. The person shall have two years from
19 the date of discovery of the unauthorized disclosure to
20 bring suit.”.

21 (e) EFFECTIVE DATE.—

22 (1) IN GENERAL.—The amendments made by
23 this section shall apply to plan years beginning after
24 December 31, 2009.

1 (2) CONFIDENTIALITY.—The amendment made
2 by subsection (c) shall take effect on the date of the
3 enactment of this Act.

4 **SEC. 108. BENEFIT RESTRICTION EFFECTIVE DATE FOR**
5 **COLLECTIVELY BARGAINED PLANS.**

6 (a) AMENDMENTS WITH RESPECT TO ERISA.—

7 (1) PLAN AMENDMENTS.—Paragraph (2) of
8 section 103(c) of the Pension Protection Act of 2006
9 is amended by striking “the amendments made by
10 this section” and inserting “section 206(g)(2) of the
11 Employee Retirement Income Security Act of 1974
12 (and other provisions of such section 206(g) to the
13 extent that they apply to such section 206(g)(2)), as
14 added by this section,”.

15 (2) OTHER BENEFIT RESTRICTIONS.—

16 (A) IN GENERAL.—Subsection (c) of sec-
17 tion 103 of the Pension Protection Act of 2006
18 is amended by adding at the end thereof the
19 following:

20 “(3) COLLECTIVE BARGAINING DELAY EXCEPT
21 REGARDING PLAN AMENDMENTS.—

22 “(A) IN GENERAL.—In the case of a plan
23 maintained pursuant to 1 or more collective
24 bargaining agreements between employee rep-
25 resentatives and 1 or more employers, the

1 amendments made by this section shall, except
2 to the extent that such amendments are subject
3 to paragraph (2), apply to plan years beginning
4 after December 31, 2011.

5 “(B) TRANSITION RULE.—

6 “(i) In the case of a plan described in
7 clause (ii), such plan shall not be required
8 to comply with this section and the amend-
9 ments made by this section until the date
10 that is 60 days after the date of the enact-
11 ment of this paragraph, but such a plan
12 may comply on any otherwise permitted
13 earlier date.

14 “(ii) A plan is described in this clause
15 if a limit on benefits or benefit accruals
16 has been or is, pursuant to section 206(g)
17 of the Employee Retirement Income Secu-
18 rity Act of 1974 and section 436 of the In-
19 ternal Revenue Code of 1986, in effect
20 with respect to such plan as of the date of
21 the enactment of this paragraph.”.

22 (3) CONFORMING AMENDMENT.—The heading
23 of paragraph (2) of section 103(c) of the Pension
24 Protection Act of 2006 is amended to read as fol-

1 lows: “COLLECTIVE BARGAINING EXCEPTION RE-
2 GARDING PLAN AMENDMENTS”.

3 (b) AMENDMENTS WITH RESPECT TO IRC.—

4 (1) PLAN AMENDMENTS.—Paragraph (2) of
5 section 113(b) of the Pension Protection Act of
6 2006 is amended by striking “the amendments made
7 by this section” and inserting “section 436(c) of the
8 Internal Revenue Code of 1986 (and other provi-
9 sions such section 436 to the extent that they apply
10 to such section 436(c)), as added by this section,”.

11 (2) OTHER BENEFIT RESTRICTIONS.—

12 (A) IN GENERAL.—Subsection (b) of sec-
13 tion 113 of the Pension Protection Act of 2006
14 is amended by adding at the end thereof the
15 following:

16 “(3) COLLECTIVE BARGAINING DELAY EXCEPT
17 REGARDING PLAN AMENDMENTS.—

18 “(A) IN GENERAL.—In the case of a plan
19 maintained pursuant to 1 or more collective
20 bargaining agreements between employee rep-
21 resentatives and 1 or more employers, the
22 amendments made by this section shall, except
23 to the extent that such amendments are subject
24 to paragraph (2), apply to plan years beginning
25 after December 31, 2011.

1 “(B) TRANSITION RULE.—

2 “(i) In the case of a plan described in
3 clause (ii), a plan shall not be required to
4 comply with this section and the amend-
5 ments made by this section until the date
6 that is 60 days after the date of the enact-
7 ment of this paragraph, but such a plan
8 may comply on any otherwise permitted
9 earlier date.

10 “(ii) A plan is described in this clause
11 if a limit on benefits or benefit accruals
12 has been or is, pursuant to section 206(g)
13 of the Employee Retirement Income Secu-
14 rity Act of 1974 and section 436 of the In-
15 ternal Revenue Code of 1986, in effect
16 with respect to such plan as of the date of
17 the enactment of this paragraph.”.

18 (3) CONFORMING AMENDMENT.—The heading
19 of paragraph (2) of section 103(b) of the Pension
20 Protection Act of 2006 is amended to read as fol-
21 lows: “COLLECTIVE BARGAINING EXCEPTION RE-
22 GARDING PLAN AMENDMENTS”.

23 (c) EFFECTIVE DATE.—Except as provided in the
24 amendments made by this section, the amendments made

1 by this section shall apply as if included in sections 103(c)
2 and 113(b) of such Act.

3 **SEC. 109. SOCIAL SECURITY LEVEL-INCOME OPTIONS.**

4 (a) AMENDMENT TO ERISA.—Subparagraph (E) of
5 section 206(g)(3) of the Employee Retirement Income Se-
6 curity Act of 1974 is amended by adding at the end there-
7 of the following:

8 “For purposes of this paragraph, any stream of pay-
9 ments that is structured to be similar in amount and
10 duration to social security supplements described in
11 the last sentence of section 204(b)(1)(G) shall be
12 treated in the same manner as such supplements.”.

13 (b) AMENDMENT TO IRC.—Paragraph (5) of section
14 436(d) of the Internal Revenue Code of 1986 is amended
15 by adding at the end thereof the following:

16 “For purposes of this subsection, any stream of payments
17 that is structured to be similar in amount and duration
18 to social security supplements described in the last sen-
19 tence of section 411(a)(9) shall be treated in the same
20 manner as such supplements.”.

21 (c) EFFECTIVE DATE.—

22 (1) IN GENERAL.—Except as provided in para-
23 graph (2), the amendments made by this section
24 shall apply as if included in sections 103(a) and
25 113(a)(1) of the Pension Protection Act of 2006.

1 (2) TRANSITION RULE.—

2 (A) In the case of a plan described in sub-
3 paragraph (B), a plan shall not be required to
4 comply with the amendments made by this sec-
5 tion until the date that is 60 days after the
6 date of enactment of this Act, but such a plan
7 may comply on any otherwise permitted earlier
8 date.

9 (B) A plan is described in this subpara-
10 graph (B) if a limit on prohibited payments is
11 or has been, pursuant to section 206(g) of the
12 Employee Retirement Income Security Act of
13 1974 and section 436 of the Internal Revenue
14 Code of 1986, in effect with respect to such
15 plan as of the date of enactment of this Act.

16 **SEC. 110. PBGC GUARANTEE.**

17 (a) GUARANTEE.—Section 4022 of the Employee re-
18 tirement Income Security Act of 1974 is amended by
19 striking subsection (g).

20 (b) ALLOCATION OF ASSETS AMONG PRIORITY
21 GROUPS.—Section 4044 of such Act is amended by strik-
22 ing subsection (e).

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall be as if included in section 404 of the
25 Pension Protection Act of 2006, except that such amend-

1 ments shall not apply to proceedings initiated under title
2 11, United States Code, or under any similar Federal law
3 or law of a State or political subdivision, on or before the
4 date of enactment of this Act.

5 **SEC. 111. APPLICATION OF EXTENDED AMORTIZATION PE-**
6 **RIOD TO PLANS SUBJECT TO PRIOR LAW**
7 **FUNDING RULES.**

8 Title I of the Pension Protection Act of 2006 is
9 amended by redesignating section 107 as section 108 and
10 by inserting the following after section 106:

11 **“SEC. 107. APPLICATION OF EXTENDED AMORTIZATION PE-**
12 **RIODS TO PLANS WITH DELAYED EFFECTIVE**
13 **DATE.**

14 “(a) IN GENERAL.—In the case of plans to which sec-
15 tion 104, 105, or 106 of this Act apply, section 302 of
16 the Employee Retirement Income Security Act of 1974
17 and section 412 of the Internal Revenue Code of 1986
18 (as in effect before the amendments made by this subtitle
19 and subtitle B) shall apply in the manner described in this
20 section. All references in this section to ‘such Act’ or ‘such
21 Code’ shall be to such Act or such Code as in effect before
22 the amendments made by this subtitle and subtitle B.

23 “(b) APPLICATION OF 2 AND 7 RULE.—

24 “(1) IN GENERAL.—In the case of an active
25 plan to which this subsection applies, section 302 of

1 such Act and section 412 of such Code shall apply
2 in the manner described in this subsection.

3 “(2) TWO YEAR SUSPENSION OF DEFICIT RE-
4 DUCTION CONTRIBUTIONS FOR CERTAIN PLANS.—
5 For purposes of applying section 302(d)(9) of such
6 Act and section 412(l)(9) of such Code to a plan de-
7 scribed in paragraph (1), the funded current liability
8 percentage for such plan for any applicable plan
9 year shall be the funded current liability percentage
10 of such plan for the pre-applicable plan year.

11 “(3) CALCULATION OF DEFICIT REDUCTION
12 CONTRIBUTION.—For purposes of applying section
13 302(d) of such Act and section 412(l) of such Code
14 to a plan to which such subsections apply (after tak-
15 ing into account paragraph (2)), the applicable per-
16 centage described in section 302(d)(4)(C) of such
17 Act and section 412(l)(4)(C) of such Code shall be
18 the third segment rate described in sections 104(b),
19 105(b), and 106(b) of this Act, provided that such
20 applicable percentage shall only apply to the in-
21 creased unfunded new liability. The applicable per-
22 centage determined without regard to this section
23 shall apply to the excess of the unfunded new liabil-
24 ity over the increased unfunded new liability.

25 “(c) APPLICATION OF 15-YEAR AMORTIZATION.—

1 “(1) IN GENERAL.—In the case of an active
2 plan to which this subsection applies, section 302 of
3 such Act and section 412 of such Code shall apply
4 in the manner described in this subsection.

5 “(2) CALCULATION OF DEFICIT REDUCTION
6 CONTRIBUTION.—For purposes of applying section
7 302(d) of such Act and section 412(l) of such Code
8 to a plan described in paragraph (1), the applicable
9 percentage described in section 302(d)(4)(C) of such
10 Act and section 412(l)(4)(C) of such Code for any
11 pre-effective date plan year shall be the ratio of—

12 “(A) the annual installments payable in
13 each year if the increased unfunded new liabil-
14 ity for such plan year were amortized over 15
15 years, using an interest rate equal to the third
16 segment rate described in sections 104(b),
17 105(b), and 106(b) of this Act, to

18 “(B) the increased unfunded new liability
19 for such plan year.

20 However, such applicable percentage shall only apply
21 to the increased unfunded new liability. The applica-
22 ble percentage determined without regard to this
23 section shall apply to the excess of the unfunded new
24 liability over the increased unfunded new liability.

1 “(d) ELECTION.—The plan sponsor may, with re-
2 spect to a plan, elect whether to apply subsection (b) or
3 subsection (c) or whether neither subsection shall apply.
4 Such election shall be made at such times, and in such
5 form and manner, as shall be prescribed by the Secretary
6 of the Treasury, and may be revoked only with the consent
7 of the Secretary of the Treasury. In the absence of a time-
8 ly election regarding which subsection shall apply to a
9 plan, neither subsection shall apply to such plan.

10 “(e) FAILURE TO MAINTAIN ACTIVE PLAN.—If the
11 minimum contribution required for a plan to avoid an ac-
12 cumulated funding deficiency under section 302 of such
13 Act and section 412 of such Code is determined under
14 subsection (b) or (c) for a plan year, the plan must remain
15 an active plan for 3 subsequent years. If such plan fails
16 to be an active plan in any such plan year, the minimum
17 contribution requirement to avoid an accumulated funding
18 deficiency shall be increased by all amounts by which such
19 minimum contribution was reduced by the application of
20 subsection (b) or (c), plus interest on such amounts at
21 the third segment rate described in sections 104(b),
22 105(b), and 106(b) of this Act. However, any such in-
23 crease in such minimum contribution shall not require a
24 contribution to the extent that the contribution would
25 cause the value of plan assets (determined under section

1 302(c)(2) of such Act and section 412(c)(2) of such Code)
2 to exceed the current liability of such plan for such year.

3 “(f) DEFINITIONS.—

4 “(1) APPLICABLE PLAN YEAR.—For purposes
5 of this section, the term ‘applicable plan year’
6 means—

7 “(A) except as provided in subparagraphs
8 (B) and (C), any plan year beginning in 2010
9 or 2011,

10 “(B) in the case of a plan with a plan year
11 beginning after October 31 and before January
12 1, any plan year beginning in 2009 or 2010,
13 and

14 “(C) in the case of a plan for which the
15 valuation date is not the first day of the plan
16 year, any plan year beginning in 2009 or 2010.

17 “(2) PRE-APPLICABLE PLAN YEAR.—For pur-
18 poses of this section, the term ‘pre-applicable plan
19 year’ means, with respect to a plan, the second plan
20 year preceding the first applicable plan year of such
21 plan.

22 “(3) PRE-EFFECTIVE DATE PLAN YEAR.—For
23 purposes of this section, the term ‘pre-effective date
24 plan year’ means, with respect to a plan, any plan
25 year prior to the first year in which the amendments

1 made by this subtitle and subtitle B apply to the
2 plan, provided that the first pre-effective date plan
3 year shall be the first applicable plan year with re-
4 spect to the plan.

5 “(4) INCREASED UNFUNDED NEW LIABILITY.—
6 For purposes of this section, the term ‘increased un-
7 funded new liability’ means, with respect to a year,
8 the excess (if any) of the unfunded new liability over
9 the amount of unfunded new liability determined as
10 if the value of the plan’s assets determined under
11 subsection 302(c)(2) of such Act and section
12 412(c)(2) of such Code equaled the product of the
13 current liability of the plan for the year multiplied
14 by the funded current liability percentage of the plan
15 for the pre-applicable plan year.

16 “(5) ACTIVE PLAN.—For purposes of this sec-
17 tion, the term ‘active plan’ shall have the meaning
18 given such term by section 303(c)(2)(G) of the Em-
19 ployee Retirement Income Security Act of 1974 and
20 in section 430(c)(2)(G) of the Internal Revenue
21 Code of 1986, except that ‘target normal cost’ (with-
22 out regard to plan administrative expenses) shall be
23 determined as if section 303 of the Employee Retirement
24 Income Security Act of 1974 and section 430
25 of the Internal Revenue Code of 1986 applied to

1 such plan with the modification regarding the inter-
2 est rate used, as set forth in section 303(e)(2)(G) of
3 the Employee Retirement Income Security Act of
4 1974 and in section 430(e)(2)(G) of the Internal
5 Revenue Code of 1986.

6 “(6) OTHER DEFINITIONS.—For purposes of
7 this section, the terms ‘funded current liability per-
8 centage’, ‘unfunded new liability’, and ‘current liabil-
9 ity’ shall have the meanings set forth in section
10 302(d) of such Act and section 412(l) of such
11 Code.”.

12 **SEC. 112. ADDITIONS TO FUNDING-BASED LIMITS ON BENE-**
13 **FITS AND BENEFITS ACCRUALS UNDER SIN-**
14 **GLE-EMPLOYER PLANS.**

15 (a) AMENDMENTS TO IRC.—

16 (1) Subsection (c) of section 436 of the Internal
17 Revenue Code of 1986 is amended by redesignating
18 paragraph (3) as paragraph (4) and by inserting
19 after paragraph (2) the following:

20 “(3) SPECIAL LIMITATIONS ON AD HOC AMEND-
21 MENTS.—

22 “(A) IN GENERAL.—No ad hoc amendment
23 to a defined benefit plan which is a single em-
24 ployer plan which has the effect of increasing li-
25 abilities of the plan by reason of increases in

1 benefits, establishment of new benefits, chang-
2 ing the rate of benefit accrual, or changing the
3 rate of which benefits become nonforfeitable
4 may take effect during the plan year if the ad-
5 justed funding target attainment percentage for
6 such plan year is—

7 “(i) less than 120 percent, or

8 “(ii) would be less than 120 percent
9 taking into account such amendment.

10 “(B) EXEMPTION.—Subparagraph (A)
11 shall cease to apply with respect to any plan
12 year, effective as of the first day of the plan
13 year (or if later, the effective date of the
14 amendment), upon payment by the plan sponsor
15 of a contribution (in addition to any minimum
16 required contribution under section 430) equal
17 to—

18 “(i) in the case of subparagraph
19 (A)(i), the amount of the increase in the
20 funding target of the plan (under section
21 430) for the plan year attributable to the
22 amendment, and

23 “(ii) in the case of subparagraph
24 (A)(ii), the amount sufficient to result in

1 an adjusted funding target attainment per-
2 centage of 80 percent.

3 “(C) SPECIAL RULE.—An ad hoc amend-
4 ment that is otherwise permitted to take effect
5 under this subsection may not take effect unless
6 the plan provides that the accrued pension ben-
7 efits of any participant or beneficiary under the
8 plan become nonforfeitable in the same manner
9 which would be required if the plan had termi-
10 nated as of the effective date of such ad hoc
11 amendment.

12 “(D) AD HOC AMENDMENT.—For purposes
13 of this paragraph, the term ‘ad hoc amendment’
14 means an amendment to a plan which—

15 “(i) increases the nonforfeitable bene-
16 fits payable to one or more participants,

17 “(ii) applies only to a subset of the
18 employees otherwise eligible to accrue ben-
19 efits under the plan,

20 “(iii) applies by its terms only to em-
21 ployees who, during a limited period of
22 time, terminate employment, and

23 “(iv) provides that the increase de-
24 scribed in clause (i) is payable in the form

1 of a prohibited payment (as defined in sub-
2 section (d)(5)).”.

3 (2) Paragraph (4) of section 436(c) of such
4 Code, as redesignated by paragraph (1), is amend-
5 ed—

6 (A) by inserting “(A)” before “Paragraph
7 (1)” and moving the text thereof 2 ems to the
8 right, and

9 (B) by adding at the end the following:

10 “(B) Paragraph (3) shall not apply to any
11 amendment of a plan maintained pursuant to 1
12 or more collective bargaining agreements be-
13 tween employee representatives and 1 or more
14 employers.”.

15 (b) AMENDMENTS TO ERISA.—

16 (1) Paragraph (2) of section 206(g) of the Em-
17 ployee Retirement Income Security Act of 1974 is
18 amended by redesignating subparagraph (C) as sub-
19 paragraph (D) and by inserting after subparagraph
20 (B) the following:

21 “(C) SPECIAL LIMITATIONS ON AD HOC
22 AMENDMENTS.—

23 “(i) IN GENERAL.—No ad hoc amend-
24 ment to a defined benefit plan which is a
25 single employer plan which has the effect

1 of increasing liabilities of the plan by rea-
2 son of increases in benefits, establishment
3 of new benefits, changing the rate of ben-
4 efit accrual, or changing the rate of which
5 benefits become nonforfeitable may take ef-
6 fect during the plan year if the adjusted
7 funding target attainment percentage for
8 such plan year is—

9 “(I) less than 120 percent, or

10 “(II) would be less than 120 per-
11 cent taking into account such amend-
12 ment.

13 “(ii) EXEMPTION.—Clause (i) shall
14 cease to apply with respect to any plan
15 year, effective as of the first day of the
16 plan year (or if later, the effective date of
17 the amendment), upon payment by the
18 plan sponsor of a contribution (in addition
19 to any minimum required contribution
20 under section 303) equal to—

21 “(I) in the case of clause (i)(I),
22 the amount of the increase in the
23 funding target of the plan (under sec-
24 tion 303) for the plan year attrib-
25 utable to the amendment, and

1 “(II) in the case of clause (i)(II),
2 the amount sufficient to result in an
3 adjusted funding target attainment
4 percentage of 80 percent.

5 “(iii) SPECIAL RULE.—An ad hoc
6 amendment that is otherwise permitted to
7 take effect under this paragraph may not
8 take effect unless the plan provides that
9 the accrued pension benefits of any partici-
10 pant or beneficiary under the plan become
11 nonforfeitable in the same manner which
12 would be required if the plan had termi-
13 nated as of the effective date of such ad
14 hoc amendment.

15 “(iv) AD HOC AMENDMENT.—For
16 purposes of this subparagraph, the term
17 ‘ad hoc amendment’ means an amendment
18 to a plan which—

19 “(I) increases the nonforfeitable
20 benefits payable to one or more par-
21 ticipants,

22 “(II) applies only to a subset of
23 the employees otherwise eligible to ac-
24 cruerue benefits under the plan,

1 “(III) applies by its terms only to
2 employees who, during a limited pe-
3 riod of time, terminate employment,
4 and

5 “(IV) provides that the increase
6 described in subclause (I) is payable
7 in the form of a prohibited payment
8 (as defined in paragraph (3)(E)).”.

9 (2) Subparagraph (D) of section 202(g)(2) of
10 such Act, as redesignated by paragraph (1), is
11 amended—

12 (A) by inserting “(i)” before “Subpara-
13 graph (A)” and moving the text thereof 2 ems
14 to the right, and

15 (B) by adding at the end the following:

16 “(ii) Subparagraph (C) shall not
17 apply to any amendment of a plan main-
18 tained pursuant to 1 or more collective
19 bargaining agreements between employee
20 representatives and 1 or more employers.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to plan amendments adopted more
23 than 180 days after the date of the enactment of this Act.

1 **SEC. 113. REPORTABLE EVENTS.**

2 (a) IN GENERAL.—Section 4043 of the Employee Re-
3 tirement Income Security Act of 1974 is amended by re-
4 designating subsection (f) as subsection (g) and by insert-
5 ing after subsection (e) the following:

6 “(f) SPECIAL RULE.—

7 “(1) IN GENERAL.—A reportable event de-
8 scribed in paragraph (3) of subsection (c) (without
9 regard to this subsection) shall not be treated as oc-
10 ccurring with respect to a plan for an applicable plan
11 year if—

12 “(A) the number of employees of the con-
13 tributing sponsor is at least 80 percent of the
14 number of employees of the contributing spon-
15 sor at the beginning of the plan year, and is at
16 least 75 percent of the number of employees of
17 the contributing sponsor at the beginning of the
18 previous plan year,

19 “(B) the funded vested benefit percentage
20 (as defined for purposes of subsection
21 (b)(1)(B)) for the pre-applicable plan year was
22 at least 80 percent, and

23 “(C) the contributing sponsor notifies the
24 corporation of the use of the rule described in
25 this subsection by the date that such contrib-
26 uting sponsor would (but for this subsection) be

1 required to notify the corporation of an event
2 described in subsection (c)(3).

3 “(2) DEFINITIONS.—For purposes of this sub-
4 section—

5 “(A) EMPLOYEE.—The term ‘employee’
6 means, in connection with a contributing spon-
7 sor, an employee of the contributing sponsor or
8 of any member of such sponsor’s controlled
9 group.

10 “(B) APPLICABLE PLAN YEAR.—The term
11 ‘applicable plan year’ means—

12 “(i) except as provided in this sub-
13 paragraph, any plan year beginning in
14 2010 or 2011,

15 “(ii) in the case of a plan with a plan
16 year beginning after October 31 and before
17 January 1, any plan year beginning in
18 2009 or 2010, and

19 “(iii) in the case of a plan for which
20 the valuation date is not the first day of
21 the plan year, any plan year beginning in
22 2009 or 2010.

23 “(C) PRE-APPLICABLE PLAN YEAR.—The
24 term ‘pre-applicable plan year’ means, in con-
25 nection with a plan, the second plan year pre-

1 ceding the first applicable plan year of such
2 plan.”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect on the date of the enactment
5 of this Act.

6 **TITLE II—MULTIEMPLOYER** 7 **PLANS**

8 **SEC. 201. ADJUSTMENTS TO FUNDING STANDARD ACCOUNT** 9 **RULES.**

10 (a) AMORTIZATION PERIODS.—

11 (1) AMENDMENT TO ERISA.—Section 304(b) of
12 the Employee Retirement Income Security Act of
13 1974 is amended by adding at the end the following
14 new paragraph:

15 “(8) ELECTIVE SPECIAL RELIEF RULES.—

16 “(A) PLAN SPONSOR ELECTION.—

17 “(i) IN GENERAL.—Notwithstanding
18 any other provision of this subsection, ef-
19 fective starting with the actuarial valuation
20 for the plan year beginning in either 2009
21 or 2010, the plan sponsor of a multiem-
22 ployer plan that meets the solvency test in
23 subparagraph (B) may elect to use the rule
24 in either clause (ii) or clause (iii), in main-
25 taining its funding standard account. 【Q:

1 Shouldn't a year be chosen with the option
2 of the sponsor to elect the other year? The
3 'or' leaves uncertainty.】

4 “(ii) COMBINED OUTSTANDING BAL-
5 ANCE.—Under this clause, the outstanding
6 balances of all amounts required to be am-
7 ortized under paragraph (2) and para-
8 graph (3) may be combined into one
9 amount under each such paragraph, to be
10 amortized in equal annual installments
11 (until fully amortized) over a period of 30
12 plan years.

13 “(iii) INVESTMENT RETURN ACTU-
14 ARIAL LOSS.—Under this clause, the actu-
15 arial loss, if any, due to investment return
16 that is first recognized in the funding
17 standard account for the two plan years
18 beginning after August 31, 2008, and be-
19 fore September 1, 2010, may be charged
20 under paragraph (2) as an item separate
21 from other experience losses and amortized
22 in equal annual installments (until fully
23 amortized) over a period of 30 plan years.

24 “(B) SOLVENCY TEST.—An election may
25 be made under this paragraph if the plan actu-

1 ary certifies that the plan is projected to have
2 sufficient assets to timely pay expected benefits
3 and anticipated expenditures over the amortiza-
4 tion period as extended.”.

5 (2) AMENDMENT TO IRC.—Section 431(b) of
6 the Internal Revenue Code of 1986 is amended by
7 adding at the end the following new paragraph:

8 “(8) ELECTIVE SPECIAL RELIEF RULES.—

9 “(A) PLAN SPONSOR ELECTION.—

10 “(i) IN GENERAL.—Notwithstanding
11 any other provision of this subsection, ef-
12 fective starting with the actuarial valuation
13 for the plan year beginning in either 2009
14 or 2010, the plan sponsor of a multiem-
15 ployer plan that meets the solvency test in
16 subparagraph (B) may elect to use the rule
17 in either clause (ii) or clause (iii), in main-
18 taining its funding standard account. **【Q:**
19 Shouldn’t a year be chosen with the option
20 of the sponsor to elect the other year? The
21 ‘or’ leaves uncertainty.**】**

22 “(ii) COMBINED OUTSTANDING BAL-
23 ANCE.—Under this clause, the outstanding
24 balances of all amounts required to be am-
25 ortized under paragraph (2) and para-

1 graph (3) may be combined into one
2 amount under each such paragraph, to be
3 amortized in equal annual installments
4 (until fully amortized) over a period of 30
5 plan years.

6 “(iii) INVESTMENT RETURN ACTU-
7 ARIAL LOSS.—Under this clause, the actu-
8 arial loss, if any, due to investment return
9 that is first recognized in the funding
10 standard account for the two plan years
11 beginning after August 31, 2008, and be-
12 fore September 1, 2010, may be charged
13 under paragraph (2) as an item separate
14 from other experience losses and amortized
15 in equal annual installments (until fully
16 amortized) over a period of 30 plan years.

17 “(B) SOLVENCY TEST.—An election may
18 be made under this paragraph if the plan actu-
19 ary certifies that the plan is projected to have
20 sufficient assets to timely pay expected benefits
21 and anticipated expenditures over the amortiza-
22 tion period as extended.”

23 (b) AUTOMATIC AMORTIZATION EXTENSIONS.—

1 (1) AMENDMENT TO ERISA.—Section
2 304(d)(1)(A) of the Employee Retirement Income
3 Security Act of 1974 is amended—

4 (A) by striking “(not in excess of 5 years)”
5 and inserting “(not in excess of 10 years)”, and

6 (B) by redesignating subparagraph (C) as
7 subparagraph (D) and inserting after subpara-
8 graph (B) the following new subparagraph:

9 “(C) DEEMED APPROVAL.—

10 “(i) IN GENERAL.—An application
11 under this paragraph shall be deemed ap-
12 proved unless, within 45 days after it is
13 submitted, the Secretary notifies the plan
14 sponsor that the actuary has failed to cer-
15 tify to one or more of the criteria listed in
16 subparagraph (B).

17 “(ii) CORRECTIONS.—If, within 30
18 days after receiving a notice under this
19 subparagraph, the plan sponsor corrects
20 any omissions identified in the notice
21 under this subparagraph or otherwise dem-
22 onstrates that the actuary’s certification
23 satisfies subparagraph (B), the application
24 shall be deemed approved.”.

1 (2) AMENDMENT TO IRC.—Section
2 431(d)(1)(A) of the Internal Revenue Code of 1986
3 is amended—

4 (A) by striking “(not in excess of 5 years)”
5 and inserting “(not in excess of 10 years)”, and

6 (B) by redesignating subparagraph (C) as
7 subparagraph (D) and inserting after subpara-
8 graph (B) the following new subparagraph:

9 “(C) DEEMED APPROVAL.—

10 “(i) IN GENERAL.—An application
11 under this paragraph shall be deemed ap-
12 proved unless, within 45 days after it is
13 submitted, the Secretary notifies the plan
14 sponsor that the actuary has failed to cer-
15 tify to one or more of the criteria listed in
16 subparagraph (B).

17 “(ii) CORRECTIONS.—If, within 30
18 days after receiving a notice under this
19 subparagraph, the plan sponsor corrects
20 any omissions identified in the notice
21 under this subparagraph or otherwise dem-
22 onstrates that the actuary’s certification
23 satisfies subparagraph (B), the application
24 shall be deemed approved.”.

1 (c) WIDER ASSET VALUATION CORRIDOR FOR CER-
2 TAIN LOSSES.—

3 (1) IN GENERAL.—The Secretary [of the
4 Treasury] shall not treat a multiemployer plan's
5 asset valuation method as unreasonable solely be-
6 cause, with respect to investment gains and losses
7 recognized in the funding standard account for the
8 two plan years beginning after August 31, 2008,
9 and before September 1, 2010, the value reflected is
10 no more than 130 percent and no less than 70 per-
11 cent of the current fair market value.

12 (2) DEEMED APPROVAL.—A multiemployer
13 plan's adoption of a wider asset-valuation corridor
14 under paragraph (1) shall be deemed approved by
15 the Secretary of the Treasury under section
16 412(d)(1) of the Internal Revenue Code of 1986.

17 (d) MODIFICATION OF CERTAIN AMORTIZATION EX-
18 TENSIONS UNDER PRIOR LAW.—Any amortization exten-
19 sions under the terms of section 412(e) of the Internal
20 Revenue Code of 1986 (prior to enactment of the Pension
21 Protection Act of 2006) that were granted to multiem-
22 ployer plans shall remain in effect notwithstanding the im-
23 pact of investment losses incurred by the plans in 2008,
24 2009 or 2010, unless the plan sponsor elects otherwise.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect as of the first day of the first
3 plan year beginning on or after August 31, 2008.

4 **SEC. 202. MULTIEMPLOYER PLANS IN ENDANGERED OR**
5 **CRITICAL STATUS.**

6 (a) OPTIONAL LONGER CORRECTION PERIODS.—

7 (1) AMENDMENT TO ERISA.—

8 (A) FUNDING IMPROVEMENT PERIOD.—

9 Section 305(c)(4) of the Employee Retirement
10 Income Security Act of 1974 is amended by re-
11 designating subparagraphs (C) and (D) as sub-
12 paragraphs (D) and (E), respectively, and by
13 inserting after subparagraph (B) the following
14 new subparagraph:

15 “(C) ELECTION TO EXTEND PERIOD.—The
16 plan sponsor of an endangered or seriously en-
17 dangered plan may elect to extend the applica-
18 ble funding improvement period by up to 5
19 years, including any extension of the period pre-
20 viously elected pursuant to section 205 of the
21 Worker, Retiree and Employer Relief Act of
22 2008.”.

23 (B) REHABILITATION PERIOD.—Section
24 305(e)(4) of such Act is amended by redesignig-
25 nating subparagraph (B) as subparagraph (C)

1 and by inserting after subparagraph (A) the fol-
2 lowing new subparagraph:

3 “(B) ELECTION TO EXTEND PERIOD.—The
4 plan sponsor of a plan in critical status may
5 elect to extend the rehabilitation period by up
6 to five years, including any extension of the pe-
7 riod previously elected pursuant to section 205
8 of the Worker, Retiree and Employer Relief Act
9 of 2008.”.

10 (2) AMENDMENT TO IRC.—

11 (A) FUNDING IMPROVEMENT PERIOD.—
12 Section 432(c)(4) of the Internal Revenue Code
13 of 1986 is amended by redesignating subpara-
14 graphs (C) and (D) as subparagraphs (D) and
15 (E), respectively, and by inserting after sub-
16 paragraph (B) the following new subparagraph:

17 “(C) ELECTION TO EXTEND PERIOD.—The
18 plan sponsor of an endangered or seriously en-
19 dangered plan may elect to extend the applica-
20 ble funding improvement period by up to 5
21 years, including any extension of the period pre-
22 viously elected pursuant to section 205 of the
23 Worker, Retiree and Employer Relief Act of
24 2008.”.

1 (B) REHABILITATION PERIOD.—Section
2 432(e)(4) of such Code is amended by redesignig-
3 nating subparagraph (B) as subparagraph (C)
4 and by inserting after subparagraph (A) the fol-
5 lowing new subparagraph:

6 “(B) ELECTION TO EXTEND PERIOD.—The
7 plan sponsor of a plan in critical status may
8 elect to extend the rehabilitation period by up
9 to five years, including any extension of the pe-
10 riod previously elected pursuant to section 205
11 of the Worker, Retiree and Employer Relief Act
12 of 2008.”.

13 (b) SIMPLIFICATION OF THE FUNDING IMPROVE-
14 MENT PERIOD FOR CERTAIN SERIOUSLY ENDANGERED
15 PLANS.—

16 (1) AMENDMENT TO ERISA.—Section 305(c) of
17 the Employee Retirement Income Security Act of
18 1974 is amended—

19 (A) by striking paragraph (5) and redesignig-
20 nating paragraph (6) as paragraph (5), and

21 (B) in paragraph (1) by striking “(as
22 modified by paragraph (5))”.

23 (2) AMENDMENT TO IRC.—Section 432(c) of
24 the Internal Revenue Code of 1986 is amended—

1 (A) by striking paragraph (5) and redesignig-
2 nating paragraph (6) as paragraph (5), and

3 (B) in paragraph (1) by striking “(as
4 modified by paragraph (5))”.

5 (c) ALTERNATIVE DEFAULT SCHEDULE FOR CER-
6 TAIN ENDANGERED AND CRITICAL-STATUS PLANS.—

7 (1) AMENDMENT TO ERISA.—

8 (A) Paragraph (7) of section 305(c) of the
9 Employee Retirement Income Security Act of
10 1974 is amended by adding at the end the fol-
11 lowing:

12 “(D) ALTERNATIVE DEFAULT SCHED-
13 ULE.—A plan sponsor may designate a schedule
14 of contribution rates and related benefit
15 changes as the default schedule, in lieu of the
16 schedule described in paragraph (1)(B)(i), after
17 the alternative schedule so designated has been
18 adopted in collective bargaining agreements cov-
19 ering at least 75 percent of the active partici-
20 pants as of the date of the designation.”.

21 (B) Paragraph (3) of section 305(e) of
22 such Act is amended by adding at the end the
23 following:

24 “(D) ALTERNATIVE DEFAULT SCHED-
25 ULE.—A plan sponsor may designate a schedule

1 of contribution rates and related benefit
2 changes as the default schedule, in lieu of the
3 default schedule described in paragraph
4 (1)(B)(ii), after the alternative schedule so des-
5 igned has been adopted in collective bar-
6 gaining agreements covering at least 75 percent
7 of the active participants as of the date of the
8 designation.”.

9 (2) AMENDMENT TO IRC.—

10 (A) Paragraph (7) of section 432(c) of the
11 Internal Revenue Code of 1986 is amended by
12 adding at the end the following:

13 “(D) ALTERNATIVE DEFAULT SCHED-
14 ULE.—A plan sponsor may designate a schedule
15 of contribution rates and related benefit
16 changes as the default schedule, in lieu of the
17 schedule described in paragraph (1)(B)(i), after
18 the alternative schedule so designated has been
19 adopted in collective bargaining agreements cov-
20 ering at least 75 percent of the active partici-
21 pants as of the date of the designation.”.

22 (B) Paragraph (3) of section 432(e) of
23 such Code is amended by adding at the end the
24 following:

1 “(D) ALTERNATIVE DEFAULT SCHED-
2 ULE.—A plan sponsor may designate a schedule
3 of contribution rates and related benefit
4 changes as the default schedule, in lieu of the
5 default schedule described in paragraph
6 (1)(B)(ii), after the alternative schedule so des-
7 ignated has been adopted in collective bar-
8 gaining agreements covering at least 75 percent
9 of the active participants as of the date of the
10 designation.”.

11 (d) TECHNICAL CORRECTIONS.—

12 (1) AMENDMENTS TO ERISA.—Section 305(c) of
13 the Employee Retirement Income Security Act of
14 1974 is amended—

15 (A) in paragraph (1)(B)(i)—

16 (i) by striking “plan, including—”
17 and all that follows through “one proposal
18 for reductions” and inserting “plan, in-
19 cluding one proposal for reductions”,

20 (ii) by striking “, and” at the end of
21 subclause (I) and inserting a period, and

22 (iii) by striking subclause (II),

23 (B) in paragraph (7)(A), by striking
24 “(1)(B)(i)(I)” and inserting “(1)(B)(i)”,

1 (C) in paragraph (4) by adding at the end
2 the following:

3 “(E) PLANS THAT ACHIEVE FUNDING IM-
4 PROVEMENT BENCHMARKS WHILE IN ENDAN-
5 GERED OR SERIOUSLY ENDANGERED STATUS.—
6 If the plan’s actuary certifies under subsection
7 (b)(3)(A) that the plan has achieved the appli-
8 cable increase in the funding percentage de-
9 scribed in paragraph (3) of this subsection and
10 that the plan is nevertheless still in endangered
11 status, the provisions of this subsection and
12 subsection (d) shall remain in effect until the
13 earlier of the expiration of the funding improve-
14 ment period or the last day preceding the plan
15 year for which the actuary certifies that the
16 plan is no longer in endangered status.”, and

17 (D) in paragraph (4)(C)(ii) by striking all
18 that follows “whichever is applicable,” and in-
19 serting the following:

20 “shall end as of the close of the preceding plan year,
21 except that, until the start of the rehabilitation plan adop-
22 tion period—

23 “(I) the rules of subparagraphs
24 (A) and (B) of subsection (d)(1) shall
25 apply if, prior to the date the of the

1 critical-status certification, the plan
2 was in the funding improvement plan
3 adoption period for the plan year, and
4 “(II) the rules of subsection
5 (d)(2) shall apply if, prior to the date
6 of the critical-status certification, the
7 plan was in the funding improvement
8 period for the plan year.”.

9 (2) AMENDMENTS TO IRC.—Section 432(c) of
10 the Internal Revenue Code of 1986 is amended—

11 (A) in paragraph (1)(B)(i)—

12 (i) by striking “plan, including—”
13 and all that follows through “one proposal
14 for reductions” and inserting “plan, in-
15 cluding one proposal for reductions”,

16 (ii) by striking “, and” at the end of
17 subclause (I) and inserting a period, and

18 (iii) by striking subclause (II),

19 (B) in paragraph (7)(A), by striking
20 “(1)(B)(i)(I)” and inserting “(1)(B)(i)”,

21 (C) in paragraph (4) by adding at the end
22 the following:

23 “(E) PLANS THAT ACHIEVE FUNDING IM-
24 PROVEMENT BENCHMARKS WHILE IN ENDAN-
25 GERED OR SERIOUSLY ENDANGERED STATUS.—

1 If the plan’s actuary certifies under subsection
2 (b)(3)(A) that the plan has achieved the appli-
3 cable increase in the funding percentage de-
4 scribed in paragraph (3) of this subsection and
5 that the plan is nevertheless still in endangered
6 status, the provisions of this subsection and
7 subsection (d) shall remain in effect until the
8 earlier of the expiration of the funding improve-
9 ment period or the last day preceding the plan
10 year for which the actuary certifies that the
11 plan is no longer in endangered status.”, and

12 (D) in paragraph (4)(C)(ii) by striking all
13 that follows “whichever is applicable,” and in-
14 serting the following:

15 “shall end as of the close of the preceding plan year,
16 except that, until the start of the rehabilitation plan adop-
17 tion period—

18 “(I) the rules of subparagraphs
19 (A) and (B) of subsection (d)(1) shall
20 apply if, prior to the date the of the
21 critical-status certification, the plan
22 was in the funding improvement plan
23 adoption period for the plan year, and

24 “(II) the rules of subsection
25 (d)(2) shall apply if, prior to the date

1 of the critical-status certification, the
2 plan was in the funding improvement
3 period for the plan year.”.

4 **SEC. 203. MULTIEMPLOYER PLAN MERGERS AND ALLI-**
5 **ANCES.**

6 (a) MULTIEMPLOYER PLAN ALLIANCES.—

7 (1) AMENDMENTS TO ERISA.—

8 (A) Section 4231 of the Employee Retire-
9 ment Income Security Act of 1974 is amended
10 by adding at the end the following new sub-
11 section:

12 “(e) MULTIEMPLOYER PLAN ALLIANCES.—

13 “(1) IN GENERAL.—The plan sponsor of a mul-
14 tiemployer plan into which another multiemployer
15 plan has been merged may designate the merger as
16 an alliance to which the rules of this subsection
17 apply by amending the plan—

18 “(A) to identify the allied plan, and

19 “(B) to delineate the terms of operation of
20 the alliance, including the allocation of em-
21 ployer contributions and experience gains and
22 losses between the merged plan and the par-
23 tially separate frozen allied plan described in
24 paragraphs (2) and (3).

1 “(2) APPLICABLE PROVISIONS.—Except to the
2 extent otherwise provided in the plan amendment
3 under paragraph (1), sections 302, 304 and 305
4 (minimum funding), Part 1 of Subtitle E (with-
5 drawal liability), sections 4244A and 4281 (plan ter-
6 mination), part 3 of subtitle E (plan reorganization
7 and insolvency) and section 4261 (financial assist-
8 ance from the corporation) shall apply to the frozen
9 allied plan and the plan into which the allied plan
10 was merged as if they were separate plans.

11 “(3) FROZEN ALLIED PLAN TREATED AS SEPA-
12 RATE PLAN.—

13 “(A) ASSETS AND LIABILITIES.—The fro-
14 zen allied plan that is treated in part as a sepa-
15 rate plan pursuant to this paragraph comprises
16 the assets and liabilities of the allied plan as if
17 it had been amended, effective immediately be-
18 fore the effective date of the merger, to cease
19 all benefit accruals.

20 “(B) EMPLOYERS MAINTAINING PLAN.—
21 The employers that were obligated to contribute
22 to the allied plan immediately before the effec-
23 tive date of the merger, and any successors
24 thereto whether by sale, reorganization or oth-
25 erwise, shall be considered to be the employers

1 maintaining the partially separate frozen allied
2 plan, to the extent they continue to have an ob-
3 ligation to contribute with respect to partici-
4 pants or facilities covered by the allied plan.

5 “(C) PARTICIPANTS AND BENE-
6 FICIARIES.—The participants and beneficiaries
7 of the allied plan immediately before the effec-
8 tive date of the merger shall be considered to
9 be the participants and beneficiaries of the par-
10 tially separate frozen allied plan thereafter.

11 “(4) TREATMENT OF MERGED PLAN AS SINGLE
12 PLAN.—Except as provided in paragraphs (2) and
13 (3), the allied plan and the plan into which it has
14 been merged shall be treated as a single plan.

15 “(5) OTHER RULES.—

16 “(A) ADOPTION OF INITIAL PLAN AMEND-
17 MENT.—The plan amendment initially desig-
18 nating a merger as an alliance, identifying the
19 allied plan and delineating the terms of the alli-
20 ance must be adopted by no later than the last
21 day of the plan year in which the merger takes
22 effect.

23 “(B) SUBSEQUENT AMENDMENTS.—That
24 initial plan amendment may subsequently be
25 modified or repealed, except that the plan gives

1 notice of the change to the employers and par-
2 ticipants of the allied plan at least 15 days be-
3 fore the subsequent amendment takes effect.

4 “(C) DISCRETION TO TREAT MERGERS
5 DIFFERENTLY.—The plan sponsor of a multi-
6 employer plan may, in its discretion, treat some
7 mergers as alliances and others as full mergers,
8 and may prescribe different terms of operation
9 for different alliances, if the basis for the dis-
10 tinctions is not unreasonable.”.

11 (B) Subsection (b) of section 4231 of such
12 Act is amended by striking “and” at the end of
13 paragraph (3), by striking the period at the end
14 of paragraph (4) and inserting “, and”, and by
15 inserting after paragraph (4) adding at the end
16 the following:

17 “(5) a merger that is designated as an alliance
18 under subsection (e) shall not be treated as failing
19 to meet any of the criteria of this subsection solely
20 because benefits under the allied plan are, or are ex-
21 pected to be, reduced or eliminated pursuant to sec-
22 tion 305 as a result of the endangered or critical
23 status of the frozen allied plan.”.

24 (C) Section 404(a) of the Employee Retire-
25 ment Income Security Act of 1974 is amended

1 by adding at the end the following new para-
2 graph:

3 “(3) With respect to a merger of multiemployer
4 plans, including a merger that is designated as an
5 alliance under section 4231(e), the plan sponsors of
6 the merging plans shall be considered to meet the
7 requirements of paragraph (1)(A) if the plan spon-
8 sors determine that the merger is not reasonably
9 likely to be adverse to the long-term interests of the
10 participants and beneficiaries of the plan for which
11 the plan sponsors are responsible prior to the merg-
12 er.”.

13 (i) Section 4231(c) of the Employee
14 Retirement Income Security Act of 1974 is
15 amended by striking “The merger of multi-
16 employer plans or the transfer” and insert-
17 ing “The merger of multiemployer plans,
18 including a merger that is designated as an
19 alliance, or the transfer”.

20 (2) AMENDMENTS TO IRC.—Section 412 of the
21 Internal Revenue Code of 1986 is amended by add-
22 ing at the end the following:

23 “(e) MULTIEMPLOYER PLAN ALLIANCES.—

24 “(1) IN GENERAL.—Except to the extent other-
25 wise provided in the plan amendment under section

1 4231(e)(1) of the Employee Retirement Income Se-
2 curity Act of 1974 designating a multiemployer plan
3 merger as an alliance, this section and sections 431
4 and 432 shall apply to the frozen allied plan and the
5 plan into which the allied plan was merged as if they
6 were separate plans.

7 “(2) EMPLOYERS MAINTAINING PLAN.—The
8 employers that were obligated to contribute to the
9 allied plan immediately before the effective date of
10 the merger, and any successors thereto whether by
11 sale, reorganization or otherwise, shall be considered
12 to be the employers maintaining the partially sepa-
13 rate frozen allied plan to the extent they continue to
14 have an obligation to contribute with respect to par-
15 ticipants or facilities covered by the allied plan.

16 “(3) PARTICIPANTS AND BENEFICIARIES.—The
17 participants and beneficiaries of the allied plan im-
18 mediately before the effective date of the merger
19 shall be considered to be the participants and bene-
20 ficiaries of the partially separate frozen allied plan
21 thereafter.

22 “(4) TREATMENT OF MERGED PLAN AS SINGLE
23 PLAN.—Except as provided in paragraphs (2) and
24 (3) of section 4231(e) of the Employee Retirement
25 Income Security Act of 1974, the allied plan and the

1 plan into which it has been merged shall be treated
2 as a single plan.

3 “(5) ALLIANCE; ALLIED PLAN.—For purposes
4 of this subsection, the terms ‘alliance’ and ‘allied
5 plan’ shall have the same meanings as they have
6 under section 4231(e) of the Employee Retirement
7 Income Security Act of 1974.”.

8 (b) PBGC ASSISTANCE FOR MULTIEMPLOYER PLAN
9 MERGERS.—Section 4231 of the Employee Retirement In-
10 come Security Act of 1974, as amended by this Act, is
11 amended by adding at the end the following:

12 “(f) FACILITATED MERGERS.—

13 “(1) IN GENERAL.—When requested to do so
14 by the plan sponsors, the corporation shall take rea-
15 sonable actions to promote and facilitate the merger
16 of two or more multiemployer plans, including a
17 merger that is designated as an alliance, if it deter-
18 mines that the transaction is in the interests of the
19 participants and beneficiaries of at least one of the
20 plans, and is not reasonably expected to be adverse
21 to the long-term interests of the participants and
22 beneficiaries of the other plan or plans. Such facili-
23 tation may include training, technical assistance,
24 mediation, communication with stakeholders and

1 support with related requests to other government
2 agencies, among other activities.

3 “(2) FINANCIAL ASSISTANCE.—To facilitate
4 mergers, including mergers designated as alliances,
5 which it determines are reasonably necessary to en-
6 able one or more of the plans involved to avoid or
7 postpone insolvency, the corporation may provide fi-
8 nancial assistance to the merged plan if it reason-
9 ably expects that such financial assistance will re-
10 duce the corporation’s likely long-term loss with re-
11 spect to the plans involved.”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect as of the first day of the first
14 plan year beginning on or after January 1, 2009.

15 **SEC. 204. STRENGTHENING PARTICIPANTS’ BENEFIT PRO-**
16 **TECTIONS.**

17 (a) INCREASE IN MULTIEMPLOYER BENEFIT GUAR-
18 ANTEE.—Paragraph (1) of section 4022A(c) of the Em-
19 ployee Retirement Income Security Act of 1974 is amend-
20 ed to read as follows:

21 “(1) Except as provided in subsection (g), the
22 monthly benefit of a participant or a beneficiary
23 which is guaranteed under this section by the cor-
24 poration with respect to a plan is the product of the

1 number of the participant's years of credited service
2 multiplied by the sum of—

3 “(A) 100 percent of the accrual rate up to
4 \$11, plus 75 percent of the lesser of—

5 “(i) \$33, or

6 “(ii) the accrual rate, if any, in excess
7 of \$11, and

8 “(B) 50 percent of the lesser of—

9 “(i) \$40 or

10 “(ii) the accrual rate, if any, in excess
11 of \$44.”.

12 (b) QUALIFIED PARTITION OF ELIGIBLE MULTIEMPLOYER PLANS.—

13 (1) QUALIFIED PARTITIONS.—Section 4233 of
14 the Employee Retirement Income Security Act of
15 1974 is amended by adding at the end the following
16 new subsection:
17

18 “(g) QUALIFIED PARTITION OF ELIGIBLE MULTIEMPLOYER PLANS.—

19 (1) IN GENERAL.—Notwithstanding sub-
20 sections (a) through (f), upon the election by the
21 plan sponsor of an eligible multiemployer plan of a
22 qualified partition, the corporation shall order a par-
23 tition of the electing multiemployer plan in accord-
24 ance with this subsection, effective on the first day
25

1 of the first month that begins at least 90 days after
2 the date the multiemployer plan made the qualified
3 partition election.

4 “(2) ELIGIBLE MULTIEMPLOYER PLAN.—An el-
5 igible multiemployer plan is a multiemployer plan as
6 to which—

7 “(A) the plan actuary has certified pursu-
8 ant to section 305(c) that the plan is currently
9 in critical status (within the meaning of section
10 305(b)(2));

11 “(B) a substantial reduction in the amount
12 of aggregate contributions under the plan has
13 resulted or will result from—

14 “(i) cases or proceedings under title
15 11, United States Code, with respect to
16 employers, or

17 “(ii) employers’ ceasing to be in busi-
18 ness, if such employers did not pay the full
19 amount of withdrawal liability demanded
20 by the plan under section 4219;

21 “(C) the plan sponsor has certified, con-
22 sistent with projections provided by the plan ac-
23 tuary, that the plan is likely to become insol-
24 vent;

1 “(D) the plan sponsor has certified, con-
2 sistent with projections provided by the plan ac-
3 tuary, that contributions will have to be in-
4 creased significantly to prevent insolvency;

5 “(E) the plan sponsor has certified that, as
6 of the last day of each of the two immediately
7 preceding plan years—

8 “(i) the ratio of the number of the
9 plan’s retirees, beneficiaries of deceased
10 participants, and terminated vested partici-
11 pants to the number of the plan’s active
12 participants for each such year was at
13 least 2 to 1; and

14 “(ii) the ratio of benefit payments
15 made by the plan for each such year to
16 contributions required to be made to the
17 plan under section 304 or 305(e), as appli-
18 cable, for each such year was at least 2 to
19 1; and

20 “(F) the plan sponsor has certified, con-
21 sistent with projections provided by the plan ac-
22 tuary, that partition would significantly reduce
23 the likelihood that the plan will become insol-
24 vent.

1 “(3) TRANSFERS UNDER QUALIFIED PARTITION
2 ORDER.—The corporation’s qualified partition order
3 shall provide for transfers as follows:

4 “(A) An initial transfer of—

5 “(i) no more than the nonforfeitable
6 benefits directly attributable to service with
7 the employers referred to in paragraph
8 (2)(ii), and

9 “(ii) assets attributable to any with-
10 drawal liability payments by such employ-
11 ers and, as adjusted by any gains or losses
12 thereon, and reduced by any benefit pay-
13 ments made with regard to service with the
14 employers.

15 “(B) As of the last day of each plan year
16 following a plan year in which a qualified parti-
17 tion has occurred, the plan sponsor shall deter-
18 mine whether during such plan year, the aggre-
19 gate contributions under the plan declined by
20 10 percent or more as a result of events de-
21 scribed in paragraph (2)(ii); and if such decline
22 has occurred, an additional transfer of –

23 “(i) no more than the nonforfeitable
24 benefits directly attributable to service with
25 employers that meets the requirements of

1 paragraph (2)(ii) after the election of a
2 qualified partition, and

3 “(ii) assets attributable to any with-
4 drawal liability payments by such employ-
5 ers, as adjusted by any gains or losses
6 thereon, and reduced by any benefit pay-
7 ments made with regard to service with the
8 employers.

9 “(4) PLAN CREATED BY QUALIFIED PARTI-
10 TION.—The plan created by the qualified partition
11 is—

12 “(A) a successor plan to which section
13 4022A applies, and

14 “(B) a terminated multiemployer plan to
15 which section 4041A(d) applies, with respect to
16 which only the employers described in para-
17 graphs (2)(ii) and (3)(ii) have withdrawal liabil-
18 ity.”.

19 (2) EFFECT OF QUALIFIED PARTITION ON PRE-
20 MIUMS.—

21 (A) Clause (i) of section 4006(a)(3)(C) of
22 the Employee Retirement Income Security Act
23 of 1974 is amended by adding at the end the
24 following:

1 “For purposes of this subparagraph, the value of as-
2 sets held by the corporation and the basic benefits guaran-
3 teed for multiemployer plans shall not include assets and
4 liabilities transferred pursuant to a qualified partition
5 order under section 4233(g).”.

6 (B) Section 4022A(f) of the Employee Re-
7 tirement Income Security Act of 1974 is
8 amended by adding at the end the following:

9 “(5) Basic benefits guaranteed in connection
10 with assets and liabilities transferred to the corpora-
11 tion pursuant to a qualified partition order under
12 section 4233(g) shall be disregarded under subpara-
13 graphs (1), (2), and (3)”.

14 (3) PBGC GUARANTEE OF PARTITIONED BENE-
15 FITS.—

16 (A) Section 4022A of the Employee Retire-
17 ment Income Security Act of 1974 is amended
18 by adding at the end the following:

19 “(i) The monthly benefit of a participant or a bene-
20 ficiary whose benefit was transferred pursuant to a quali-
21 fied partition which is guaranteed under this section by
22 the corporation with respect to a plan is the nonforfeitable
23 benefits of the participant or beneficiary transferred pur-
24 suant to the qualified partition.”.

1 (B) Section 4022A(c)(1) of the Employee
2 Retirement Income Security Act of 1974 is
3 amended by striking “subsection (g)” and in-
4 serting “subsections (g) and (i)”.

5 (c) FINANCING FOR QUALIFIED PARTITIONS AND
6 OTHER SPECIAL MATTERS.—

7 (1) OBLIGATIONS OF THE CORPORATION.—The
8 second sentence of section 4002(g)(2) of the Em-
9 ployee Retirement Income Security Act of 1974 is
10 amended to read as follows:

11 “The United States Government is not liable for any
12 obligation or liability incurred by the corporation, except
13 with respect to liabilities transferred pursuant to a quali-
14 fied partition of a multiemployer plan under section
15 4233(g) and such other special matters as may be des-
16 ignated in legislation making funding available therefor.”.

17 (2) PBGC FUND ESTABLISHED.—

18 (A) Fund Established. Section 4005 of the
19 Employee Retirement Income Security Act of
20 1974 is amended by deleting subsections (d)
21 and (e), redesignating existing subsections (f)
22 through (h) as subsections (e) through (g), and
23 inserting a new subsection (d), as follows:

24 “(d) ESTABLISHMENT OF FIFTH FUND; PURPOSE;
25 AVAILABILITY, ETC.—

1 “(1) IN GENERAL.—A fifth fund is hereby es-
2 tablished on the books of the Treasury of the United
3 States. Such fund shall be for the support of special
4 matters undertaken by the corporation to minimize
5 its reasonably expected long-term risk of loss with
6 respect to a plan and protect the reasonable benefit
7 expectations of plan participants and beneficiaries
8 pursuant to its responsibilities under section 4002(a)
9 to encourage the continuation and maintenance of
10 voluntary private pension plans for the benefit of
11 their participants while maintaining premiums at the
12 lowest level consistent with that objective.

13 “(2) USE OF FUND.—The fund established by
14 this subsection shall be used to finance obligations
15 undertaken by the corporation under section 4233
16 (partition of multiemployer plans) and such other
17 matters as may be identified from time to time in
18 legislation making funding available therefor.

19 “(3) CREDITS TO FUND.—The fund established
20 under this subsection shall be credited with funds
21 made available to the corporation that are des-
22 ignated for special matters and the earnings thereon,
23 including any amounts received in connection with a
24 qualified partition under section 4233(g), and shall
25 not include premiums paid under section 4007, em-

1 ployer liability or withdrawal liability payments, the
2 assets of terminated plans or repayments of finan-
3 cial assistance under section 4261 or other amounts
4 received in connection with terminated or insolvent
5 plans.

6 “(4) TRANSACTIONS WITH OTHER FUNDS.—
7 Notwithstanding paragraph (3), this fund may en-
8 gage in transactions with the other funds established
9 under this section to the extent reasonable and nec-
10 essary to meet liquidity demands and maximize the
11 ability of the corporation to accomplish its mission
12 under section 4002(a) without increasing the pre-
13 miums payable under section 4006.

14 “(5) INVESTMENTS.—The corporation may in-
15 vest amounts of the fund in such obligations as the
16 corporation considers appropriate.

17 “(6) OBLIGATIONS OF UNITED STATES.—Not-
18 withstanding any other provision of this title, obliga-
19 tions of the corporation that are financed by the
20 fund created by this subsection shall be obligations
21 of the United States.”.

22 (2) CONFORMING AMENDMENTS.—

23 (A) Section 4022A(g) of such Act is
24 amended by striking paragraph (2).

1 (B) Part 1 of subtitle E of title IV of such
2 Act is amended by striking section 4222, and
3 the table of contents for such Act is amended
4 by striking the item relating to section 4222.

5 (d) EFFECTIVE DATE.—

6 (1) The amendments made by subsection (a)
7 shall apply with respect to plans that first apply for
8 financial assistance from the Pension Benefit Guar-
9 antee Corporation after the date of enactment of
10 this Act.

11 (2) The amendments made by subsections (b)
12 and (c) shall take effect on the date of enactment
13 of this Act.