

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—111th Cong., 2d Sess.**

**H. R. 3962**

To provide affordable, quality health care for all Americans and reduce the growth in health care spending, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended  
to be proposed by \_\_\_\_\_

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Preservation of Access

5 to Care for Medicare Beneficiaries and Pension Relief Act

6 of 2010”.

# 1     **TITLE I—HEALTH PROVISIONS**

## 2     **SEC. 101. PHYSICIAN PAYMENT UPDATE.**

3           (a) IN GENERAL.—Section 1848(d) of the Social Se-  
4     curity Act (42 U.S.C. 1395w-4(d)) is amended—

5           (1) in paragraph (10), in the heading, by strik-  
6     ing “PORTION” and inserting “JANUARY THROUGH  
7     MAY ”; and

8           (2) by adding at the end the following new  
9     paragraph:

10           “(11) UPDATE FOR JUNE THROUGH NOVEMBER  
11     OF 2010.—

12           “(A) IN GENERAL.—Subject to paragraphs  
13     (7)(B), (8)(B), (9)(B), and (10)(B), in lieu of  
14     the update to the single conversion factor estab-  
15     lished in paragraph (1)(C) that would otherwise  
16     apply for 2010 for the period beginning on  
17     June 1, 2010, and ending on November 30,  
18     2010, the update to the single conversion factor  
19     shall be 2.2 percent.

20           “(B) NO EFFECT ON COMPUTATION OF  
21     CONVERSION FACTOR FOR REMAINING PORTION  
22     OF 2010 AND SUBSEQUENT YEARS.—The con-  
23     version factor under this subsection shall be  
24     computed under paragraph (1)(A) for the pe-  
25     riod beginning on December 1, 2010, and end-

1           ing on December 31, 2010, and for 2011 and  
2           subsequent years as if subparagraph (A) had  
3           never applied.”.

4           (b) **STATUTORY PAYGO.**—The budgetary effects of  
5 this Act, for the purpose of complying with the Statutory  
6 Pay-As-You-Go Act of 2010, shall be determined by ref-  
7 erence to the latest statement titled “Budgetary Effects  
8 of PAYGO Legislation” for this Act, jointly submitted for  
9 printing in the Congressional Record by the Chairmen of  
10 the House and Senate Budget Committees, provided that  
11 such statement has been submitted prior to the vote on  
12 passage in the House acting first on this conference report  
13 or amendment between the Houses.

14 **SEC. 102. CLARIFICATION OF 3-DAY PAYMENT WINDOW.**

15           (a) **IN GENERAL.**—Section 1886 of the Social Secu-  
16 rity Act (42 U.S.C. 1395ww) is amended—

17           (1) by adding at the end of subsection (a)(4)  
18           the following new sentence: “In applying the first  
19           sentence of this paragraph, the term ‘other services  
20           related to the admission’ includes all services that  
21           are not diagnostic services (other than ambulance  
22           and maintenance renal dialysis services) for which  
23           payment may be made under this title that are pro-  
24           vided by a hospital (or an entity wholly owned or op-  
25           erated by the hospital) to a patient—

1           “(A) on the date of the patient’s inpatient  
2 admission; or

3           “(B) during the 3 days (or, in the case of  
4 a hospital that is not a subsection (d) hospital,  
5 during the 1 day) immediately preceding the  
6 date of such admission unless the hospital dem-  
7 onstrates (in a form and manner, and at a  
8 time, specified by the Secretary) that such serv-  
9 ices are not related (as determined by the Sec-  
10 retary) to such admission.”; and

11 (2) in subsection (d)(7)—

12           (A) in subparagraph (A), by striking  
13 “and” at the end;

14           (B) in subparagraph (B), by striking the  
15 period and inserting “, and”; and

16           (C) by adding at the end the following new  
17 subparagraph:

18           “(C) the determination of whether services  
19 provided prior to a patient’s inpatient admis-  
20 sion are related to the admission (as described  
21 in subsection (a)(4)).”.

22       (b) **EFFECTIVE DATE.**—The amendments made by  
23 subsection (a) shall apply to services furnished on or after  
24 the date of the enactment of this Act.

1 (c) NO REOPENING OF PREVIOUSLY BUNDLED  
2 CLAIMS.—

3 (1) IN GENERAL.—The Secretary of Health and  
4 Human Services may not reopen a claim, adjust a  
5 claim, or make a payment pursuant to any request  
6 for payment under title XVIII of the Social Security  
7 Act, submitted by an entity (including a hospital or  
8 an entity wholly owned or operated by the hospital)  
9 for services described in paragraph (2) for purposes  
10 of treating, as unrelated to a patient’s inpatient ad-  
11 mission, services provided during the 3 days (or, in  
12 the case of a hospital that is not a subsection (d)  
13 hospital, during the 1 day) immediately preceding  
14 the date of the patient’s inpatient admission.

15 (2) SERVICES DESCRIBED.—For purposes of  
16 paragraph (1), the services described in this para-  
17 graph are other services related to the admission (as  
18 described in section 1886(a)(4) of the Social Secu-  
19 rity Act (42 U.S.C. 1395ww(a)(4)), as amended by  
20 subsection (a)) which were previously included on a  
21 claim or request for payment submitted under part  
22 A of title XVIII of such Act for which a reopening,  
23 adjustment, or request for payment under part B of  
24 such title, was not submitted prior to the date of the  
25 enactment of this Act.

1 (d) IMPLEMENTATION.—Notwithstanding any other  
2 provision of law, the Secretary of Health and Human  
3 Services may implement the provisions of this section (and  
4 amendments made by this section) by program instruction  
5 or otherwise.

6 (e) RULE OF CONSTRUCTION.—Nothing in the  
7 amendments made by this section shall be construed as  
8 changing the policy described in section 1886(a)(4) of the  
9 Social Security Act (42 U.S.C. 1395ww(a)(4)), as applied  
10 by the Secretary of Health and Human Services before  
11 the date of the enactment of this Act, with respect to diag-  
12 nostic services.

13 **SEC. 103. ESTABLISH A CMS-IRS DATA MATCH TO IDENTIFY**  
14 **FRAUDULENT PROVIDERS.**

15 (a) AUTHORITY TO DISCLOSE RETURN INFORMATION  
16 CONCERNING OUTSTANDING TAX DEBTS FOR PURPOSES  
17 OF ENHANCING MEDICARE PROGRAM INTEGRITY.—

18 (1) IN GENERAL.—Section 6103(l) of the Inter-  
19 nal Revenue Code of 1986 is amended by adding at  
20 the end the following new paragraph:

21 “(22) DISCLOSURE OF RETURN INFORMATION  
22 TO DEPARTMENT OF HEALTH AND HUMAN SERVICES  
23 FOR PURPOSES OF ENHANCING MEDICARE PROGRAM  
24 INTEGRITY.—

1           “(A) IN GENERAL.—The Secretary shall,  
2           upon written request from the Secretary of  
3           Health and Human Services, disclose to officers  
4           and employees of the Department of Health  
5           and Human Services return information with  
6           respect to a taxpayer who has applied to enroll,  
7           or reenroll, as a provider of services or supplier  
8           under the Medicare program under title XVIII  
9           of the Social Security Act. Such return infor-  
10          mation shall be limited to—

11                   “(i) the taxpayer identity information  
12                   with respect to such taxpayer;

13                   “(ii) the amount of the delinquent tax  
14                   debt owed by that taxpayer; and

15                   “(iii) the taxable year to which the de-  
16                   linquent tax debt pertains.

17           “(B) RESTRICTION ON DISCLOSURE.—Re-  
18           turn information disclosed under subparagraph  
19           (A) may be used by officers and employees of  
20           the Department of Health and Human Services  
21           for the purposes of, and to the extent necessary  
22           in, establishing the taxpayer’s eligibility for en-  
23           rollment or reenrollment in the Medicare pro-  
24           gram, or in any administrative or judicial pro-  
25           ceeding relating to, or arising from, a denial of

1 such enrollment or reenrollment, or in deter-  
2 mining the level of enhanced oversight to be ap-  
3 plied with respect to such taxpayer pursuant to  
4 section 1866(j)(3) of the Social Security Act.

5 “(C) DELINQUENT TAX DEBT.—For pur-  
6 poses of this paragraph, the term ‘delinquent  
7 tax debt’ means an outstanding debt under this  
8 title for which a notice of lien has been filed  
9 pursuant to section 6323, but the term does not  
10 include a debt that is being paid in a timely  
11 manner pursuant to an agreement under sec-  
12 tion 6159 or 7122, or a debt with respect to  
13 which a collection due process hearing under  
14 section 6330 is requested, pending, or com-  
15 pleted and no payment is required.”.

16 (2) CONFORMING AMENDMENTS.—Section  
17 6103(p)(4) of such Code, as amended by sections  
18 1414 and 3308 of Public Law 111–148, in the mat-  
19 ter preceding subparagraph (A) and in subpara-  
20 graph (F)(ii), is amended by striking “or (17)” and  
21 inserting “(17), or (22)” each place it appears.

22 (b) SECRETARY’S AUTHORITY TO USE INFORMATION  
23 FROM THE DEPARTMENT OF TREASURY IN MEDICARE  
24 ENROLLMENTS AND REENROLLMENTS.—Section  
25 1866(j)(2) of the Social Security Act (42 U.S.C.



1 1395cc(j)), as inserted by section 6401(a) of Public Law  
2 111–148, is further amended—

3 (1) by redesignating subparagraph (E) as sub-  
4 paragraph (F); and

5 (2) by inserting after subparagraph (D) the fol-  
6 lowing new subparagraph:

7 “(E) USE OF INFORMATION FROM THE  
8 DEPARTMENT OF TREASURY CONCERNING TAX  
9 DEBTS.—In reviewing the application of a pro-  
10 vider of services or supplier to enroll or reenroll  
11 under the program under this title, the Sec-  
12 retary shall take into account the information  
13 supplied by the Secretary of the Treasury pur-  
14 suant to section 6103(l)(22) of the Internal  
15 Revenue Code of 1986, in determining whether  
16 to deny such application or to apply enhanced  
17 oversight to such provider of services or sup-  
18 plier pursuant to paragraph (3) if the Secretary  
19 determines such provider of services or supplier  
20 owes such a debt.”.

21 (c) AUTHORITY TO ADJUST PAYMENTS OF PRO-  
22 VIDERS OF SERVICES AND SUPPLIERS WITH THE SAME  
23 TAX IDENTIFICATION NUMBER FOR MEDICARE OBLIGA-  
24 TIONS.—Section 1866(j)(6) of the Social Security Act (42  
25 U.S.C. 1395cc(j)(6)), as inserted by section 6401(a) of

1 Public Law 111–148 and as redesignated by section 1304  
2 of Public Law 111–152, is amended—

3 (1) in the paragraph heading, by striking  
4 “PAST-DUE” and inserting “MEDICARE”;

5 (2) in subparagraph (A), by striking “past-due  
6 obligations described in subparagraph (B)(ii) of an”  
7 and inserting “amount described in subparagraph  
8 (B)(ii) due from such”; and

9 (3) in subparagraph (B)(ii), by striking “a  
10 past-due obligation” and inserting “an amount that  
11 is more than the amount required to be paid”.

## 12 **TITLE II—PENSION FUNDING** 13 **RELIEF**

### 14 **Subtitle A—Single Employer Plans**

#### 15 **SEC. 201. EXTENDED PERIOD FOR SINGLE-EMPLOYER DE-** 16 **FINED BENEFIT PLANS TO AMORTIZE CER-** 17 **TAIN SHORTFALL AMORTIZATION BASES.**

18 (a) AMENDMENTS TO ERISA.—

19 (1) IN GENERAL.—Paragraph (2) of section  
20 303(c) of the Employee Retirement Income Security  
21 Act of 1974 (29 U.S.C. 1083(c)) is amended by add-  
22 ing at the end the following subparagraph:

23 “(D) SPECIAL ELECTION FOR ELIGIBLE  
24 PLAN YEARS.—

1                   “(i) IN GENERAL.—If a plan sponsor  
2                   elects to apply this subparagraph with re-  
3                   spect to the shortfall amortization base of  
4                   a plan for any eligible plan year (in this  
5                   subparagraph and paragraph (7) referred  
6                   to as an ‘election year’), then, notwith-  
7                   standing subparagraphs (A) and (B)—

8                   “(I) the shortfall amortization in-  
9                   stallments with respect to such base  
10                  shall be determined under clause (ii)  
11                  or (iii), whichever is specified in the  
12                  election, and

13                  “(II) the shortfall amortization  
14                  installment for any plan year in the 9-  
15                  plan-year period described in clause  
16                  (ii) or the 15-plan-year period de-  
17                  scribed in clause (iii), respectively,  
18                  with respect to such shortfall amorti-  
19                  zation base is the annual installment  
20                  determined under the applicable  
21                  clause for that year for that base.

22                  “(ii) 2 PLUS 7 AMORTIZATION SCHED-  
23                  ULE.—The shortfall amortization install-  
24                  ments determined under this clause are—

1                   “(I) in the case of the first 2  
2                   plan years in the 9-plan-year period  
3                   beginning with the election year, in-  
4                   terest on the shortfall amortization  
5                   base of the plan for the election year  
6                   (determined using the effective inter-  
7                   est rate for the plan for the election  
8                   year), and

9                   “(II) in the case of the last 7  
10                  plan years in such 9-plan-year period,  
11                  the amounts necessary to amortize the  
12                  remaining balance of the shortfall am-  
13                  ortization base of the plan for the  
14                  election year in level annual install-  
15                  ments over such last 7 plan years  
16                  (using the segment rates under sub-  
17                  paragraph (C) for the election year).

18                  “(iii) 15-YEAR AMORTIZATION.—The  
19                  shortfall amortization installments deter-  
20                  mined under this subparagraph are the  
21                  amounts necessary to amortize the short-  
22                  fall amortization base of the plan for the  
23                  election year in level annual installments  
24                  over the 15-plan-year period beginning  
25                  with the election year (using the segment

1 rates under subparagraph (C) for the elec-  
2 tion year).

3 “(iv) ELECTION.—

4 “(I) IN GENERAL.—The plan  
5 sponsor of a plan may elect to have  
6 this subparagraph apply to not more  
7 than 2 eligible plan years with respect  
8 to the plan, except that in the case of  
9 a plan described in section 106 of the  
10 Pension Protection Act of 2006, the  
11 plan sponsor may only elect to have  
12 this subparagraph apply to a plan  
13 year beginning in 2011.

14 “(II) AMORTIZATION SCHED-  
15 ULE.—Such election shall specify  
16 whether the amortization schedule  
17 under clause (ii) or (iii) shall apply to  
18 an election year, except that if a plan  
19 sponsor elects to have this subpara-  
20 graph apply to 2 eligible plan years,  
21 the plan sponsor must elect the same  
22 schedule for both years.

23 “(III) OTHER RULES.—Such  
24 election shall be made at such time,  
25 and in such form and manner, as

1 shall be prescribed by the Secretary of  
2 the Treasury, and may be revoked  
3 only with the consent of the Secretary  
4 of the Treasury. The Secretary of the  
5 Treasury shall, before granting a rev-  
6 ocation request, provide the Pension  
7 Benefit Guaranty Corporation an op-  
8 portunity to comment on the condi-  
9 tions applicable to the treatment of  
10 any portion of the election year short-  
11 fall amortization base that remains  
12 unamortized as of the revocation date.

13 “(v) ELIGIBLE PLAN YEAR.—For pur-  
14 poses of this subparagraph, the term ‘eligi-  
15 ble plan year’ means any plan year begin-  
16 ning in 2008, 2009, 2010, or 2011, except  
17 that a plan year shall only be treated as an  
18 eligible plan year if the due date under  
19 subsection (j)(1) for the payment of the  
20 minimum required contribution for such  
21 plan year occurs on or after the date of the  
22 enactment of this subparagraph.

23 “(vi) REPORTING.—A plan sponsor of  
24 a plan who makes an election under clause  
25 (i) shall—

1                   “(I) give notice of the election to  
2                   participants and beneficiaries of the  
3                   plan, and

4                   “(II) inform the Pension Benefit  
5                   Guaranty Corporation of such election  
6                   in such form and manner as the Di-  
7                   rector of the Pension Benefit Guar-  
8                   anty Corporation may prescribe.

9                   “(vii) INCREASES IN REQUIRED IN-  
10                   STALLMENTS IN CERTAIN CASES.—For in-  
11                   creases in required contributions in cases  
12                   of excess compensation or extraordinary  
13                   dividends or stock redemptions, see para-  
14                   graph (7).”.

15                   (2) INCREASES IN REQUIRED INSTALLMENTS IN  
16                   CERTAIN CASES.—Section 303(c) of the Employee  
17                   Retirement Income Security Act of 1974 (29 U.S.C.  
18                   1083(c)) is amended by adding at the end the fol-  
19                   lowing paragraph:

20                   “(7) INCREASES IN ALTERNATE REQUIRED IN-  
21                   STALLMENTS IN CASES OF EXCESS COMPENSATION  
22                   OR EXTRAORDINARY DIVIDENDS OR STOCK REDEMP-  
23                   TIONS.—

24                   “(A) IN GENERAL.—If there is an install-  
25                   ment acceleration amount with respect to a

1 plan for any plan year in the restriction period  
2 with respect to an election year under para-  
3 graph (2)(D), then the shortfall amortization  
4 installment otherwise determined and payable  
5 under such paragraph for such plan year shall,  
6 subject to the limitation under subparagraph  
7 (B), be increased by such amount.

8 “(B) TOTAL INSTALLMENTS LIMITED TO  
9 SHORTFALL BASE.—Subject to rules prescribed  
10 by the Secretary of the Treasury, if a shortfall  
11 amortization installment with respect to any  
12 shortfall amortization base for an election year  
13 is required to be increased for any plan year  
14 under subparagraph (A)—

15 “(i) such increase shall not result in  
16 the amount of such installment exceeding  
17 the present value of such installment and  
18 all succeeding installments with respect to  
19 such base (determined without regard to  
20 such increase but after application of  
21 clause (ii)), and

22 “(ii) subsequent shortfall amortization  
23 installments with respect to such base  
24 shall, in reverse order of the otherwise re-  
25 quired installments, be reduced to the ex-



1                   tent necessary to limit the present value of  
2                   such subsequent shortfall amortization in-  
3                   stallments (after application of this para-  
4                   graph) to the present value of the remain-  
5                   ing unamortized shortfall amortization  
6                   base.

7                   “(C)     INSTALLMENT     ACCELERATION  
8                   AMOUNT.—For purposes of this paragraph—

9                   “(i) IN GENERAL.—The term ‘install-  
10                  ment acceleration amount’ means, with re-  
11                  spect to any plan year in a restriction pe-  
12                  riod with respect to an election year, the  
13                  sum of—

14                  “(I) the aggregate amount of ex-  
15                  cess employee compensation deter-  
16                  mined under subparagraph (D) with  
17                  respect to all employees for the plan  
18                  year, plus

19                  “(II) the aggregate amount of  
20                  extraordinary dividends and redemp-  
21                  tions determined under subparagraph  
22                  (E) for the plan year.

23                  “(ii) ANNUAL LIMITATION.—The in-  
24                  stallment acceleration amount for any plan

1 year shall not exceed the excess (if any)  
2 of—

3 “(I) the sum of the shortfall am-  
4 ortization installments for the plan  
5 year and all preceding plan years in  
6 the amortization period elected under  
7 paragraph (2)(D) with respect to the  
8 shortfall amortization base with re-  
9 spect to an election year, determined  
10 without regard to paragraph (2)(D)  
11 and this paragraph, over

12 “(II) the sum of the shortfall am-  
13 ortization installments for such plan  
14 year and all such preceding plan  
15 years, determined after application of  
16 paragraph (2)(D) (and in the case of  
17 any preceding plan year, after applica-  
18 tion of this paragraph).

19 “(iii) CARRYOVER OF EXCESS IN-  
20 STALLMENT ACCELERATION AMOUNTS.—

21 “(I) IN GENERAL.—If the install-  
22 ment acceleration amount for any  
23 plan year (determined without regard  
24 to clause (ii)) exceeds the limitation  
25 under clause (ii), then, subject to sub-

1 clause (II), such excess shall be treat-  
2 ed as an installment acceleration  
3 amount with respect to the succeeding  
4 plan year.

5 “(II) CAP TO APPLY.—If any  
6 amount treated as an installment ac-  
7 celeration amount under subclause (I)  
8 or this subclause with respect any  
9 succeeding plan year, when added to  
10 other installment acceleration  
11 amounts (determined without regard  
12 to clause (ii)) with respect to the plan  
13 year, exceeds the limitation under  
14 clause (ii), the portion of such amount  
15 representing such excess shall be  
16 treated as an installment acceleration  
17 amount with respect to the next suc-  
18 ceeding plan year.

19 “(III) LIMITATION ON YEARS TO  
20 WHICH AMOUNTS CARRIED FOR.—No  
21 amount shall be carried under sub-  
22 clause (I) or (II) to a plan year which  
23 begins after the first plan year fol-  
24 lowing the last plan year in the re-  
25 striction period (or after the second

1 plan year following such last plan year  
2 in the case of an election year with re-  
3 spect to which 15-year amortization  
4 was elected under paragraph (2)(D)).

5 “(IV) ORDERING RULES.—For  
6 purposes of applying subclause (II),  
7 installment acceleration amounts for  
8 the plan year (determined without re-  
9 gard to any carryover under this  
10 clause) shall be applied first against  
11 the limitation under clause (ii) and  
12 then carryovers to such plan year  
13 shall be applied against such limita-  
14 tion on a first-in, first-out basis.

15 “(D) EXCESS EMPLOYEE COMPENSA-  
16 TION.—For purposes of this paragraph—

17 “(i) IN GENERAL.—The term ‘excess  
18 employee compensation’ means, with re-  
19 spect to any employee for any plan year,  
20 the excess (if any) of—

21 “(I) the aggregate amount in-  
22 cludible in income under chapter 1 of  
23 the Internal Revenue Code of 1986  
24 for remuneration during the calendar  
25 year in which such plan year begins

1 for services performed by the em-  
2 ployee for the plan sponsor (whether  
3 or not performed during such cal-  
4 endar year), over

5 “(II) \$1,000,000.

6 “(ii) AMOUNTS SET ASIDE FOR NON-  
7 QUALIFIED DEFERRED COMPENSATION.—  
8 If during any calendar year assets are set  
9 aside or reserved (directly or indirectly) in  
10 a trust (or other arrangement as deter-  
11 mined by the Secretary of the Treasury),  
12 or transferred to such a trust or other ar-  
13 rangement, by a plan sponsor for purposes  
14 of paying deferred compensation of an em-  
15 ployee under a nonqualified deferred com-  
16 pensation plan (as defined in section 409A  
17 of such Code) of the plan sponsor, then,  
18 for purposes of clause (i), the amount of  
19 such assets shall be treated as remunera-  
20 tion of the employee includible in income  
21 for the calendar year unless such amount  
22 is otherwise includible in income for such  
23 year. An amount to which the preceding  
24 sentence applies shall not be taken into ac-

1 count under this paragraph for any subse-  
2 quent calendar year.

3 “(iii) ONLY REMUNERATION FOR CER-  
4 TAIN POST-2009 SERVICES COUNTED.—Re-  
5 munerations shall be taken into account  
6 under clause (i) only to the extent attrib-  
7 utable to services performed by the em-  
8 ployee for the plan sponsor after February  
9 28, 2010.

10 “(iv) EXCEPTION FOR CERTAIN EQ-  
11 UITY PAYMENTS.—

12 “(I) IN GENERAL.—There shall  
13 not be taken into account under  
14 clause (i)(I) any amount includible in  
15 income with respect to the granting  
16 after February 28, 2010, of service  
17 recipient stock (within the meaning of  
18 section 409A of the Internal Revenue  
19 Code of 1986) that, upon such grant,  
20 is subject to a substantial risk of for-  
21 feiture (as defined under section  
22 83(c)(1) of such Code) for at least 5  
23 years from the date of such grant.

24 “(II) SECRETARIAL AUTHOR-  
25 ITY.—The Secretary of the Treasury

1                   may by regulation provide for the ap-  
2                   plication of this clause in the case of  
3                   a person other than a corporation.

4                   “(v) OTHER EXCEPTIONS.—The fol-  
5                   lowing amounts includible in income shall  
6                   not be taken into account under clause  
7                   (i)(I):

8                                 “(I) COMMISSIONS.—Any remu-  
9                                 neration payable on a commission  
10                                basis solely on account of income di-  
11                               rectly generated by the individual per-  
12                               formance of the individual to whom  
13                               such remuneration is payable.

14                               “(II) CERTAIN PAYMENTS UNDER  
15                               EXISTING CONTRACTS.—Any remu-  
16                               neration consisting of nonqualified de-  
17                               ferred compensation, restricted stock,  
18                               stock options, or stock appreciation  
19                               rights payable or granted under a  
20                               written binding contract that was in  
21                               effect on March 1, 2010, and which  
22                               was not modified in any material re-  
23                               spect before such remuneration is  
24                               paid.

1                   “(vi) SELF-EMPLOYED INDIVIDUAL  
2                   TREATED AS EMPLOYEE.—The term ‘em-  
3                   ployee’ includes, with respect to a calendar  
4                   year, a self-employed individual who is  
5                   treated as an employee under section  
6                   401(c) of such Code for the taxable year  
7                   ending during such calendar year, and the  
8                   term ‘compensation’ shall include earned  
9                   income of such individual with respect to  
10                  such self-employment.

11                  “(vii) INDEXING OF AMOUNT.—In the  
12                  case of any calendar year beginning after  
13                  2010, the dollar amount under clause  
14                  (i)(II) shall be increased by an amount  
15                  equal to—

16                         “(I) such dollar amount, multi-  
17                         plied by

18                                 “(II) the cost-of-living adjust-  
19                                 ment determined under section 1(f)(3)  
20                                 of such Code for the calendar year,  
21                                 determined by substituting ‘calendar  
22                                 year 2009’ for ‘calendar year 1992’ in  
23                                 subparagraph (B) thereof.

24                  If the amount of any increase under clause  
25                  (i) is not a multiple of \$1,000, such in-



1                   crease shall be rounded to the next lowest  
2                   multiple of \$1,000.

3                   “(E) EXTRAORDINARY DIVIDENDS AND  
4 REDEMPTIONS.—

5                   “(i) IN GENERAL.—The amount de-  
6                   termined under this subparagraph for any  
7                   plan year is the excess (if any) of the sum  
8                   of the dividends declared during the plan  
9                   year by the plan sponsor plus the aggre-  
10                  gate amount paid for the redemption of  
11                  stock of the plan sponsor redeemed during  
12                  the plan year over the greater of—

13                  “(I) the adjusted net income  
14                  (within the meaning of section 4043)  
15                  of the plan sponsor for the preceding  
16                  plan year, determined without regard  
17                  to any reduction by reason of interest,  
18                  taxes, depreciation, or amortization,  
19                  or

20                  “(II) in the case of a plan spon-  
21                  sor that determined and declared divi-  
22                  dends in the same manner for at least  
23                  5 consecutive years immediately pre-  
24                  ceding such plan year, the aggregate  
25                  amount of dividends determined and

1                   declared for such plan year using such  
2                   manner.

3                   “(ii) ONLY CERTAIN POST-2009 DIVI-  
4                   DENDS AND REDEMPTIONS COUNTED.—  
5                   For purposes of clause (i), there shall only  
6                   be taken into account dividends declared,  
7                   and redemptions occurring, after February  
8                   28, 2010.

9                   “(iii) EXCEPTION FOR INTRA-GROUP  
10                  DIVIDENDS.—Dividends paid by one mem-  
11                  ber of a controlled group (as defined in  
12                  section 302(d)(3)) to another member of  
13                  such group shall not be taken into account  
14                  under clause (i).

15                  “(iv) EXCEPTION FOR CERTAIN RE-  
16                  DEMPTIONS.—Redemptions that are made  
17                  pursuant to a plan maintained with respect  
18                  to employees, or that are made on account  
19                  of the death, disability, or termination of  
20                  employment of an employee or shareholder,  
21                  shall not be taken into account under  
22                  clause (i).

23                  “(v) EXCEPTION FOR CERTAIN PRE-  
24                  FERRED STOCK.—

1                   “(I) IN GENERAL.—Dividends  
2                   and redemptions with respect to appli-  
3                   cable preferred stock shall not be  
4                   taken into account under clause (i) to  
5                   the extent that dividends accrue with  
6                   respect to such stock at a specified  
7                   rate in all events and without regard  
8                   to the plan sponsor’s income, and in-  
9                   terest accrues on any unpaid divi-  
10                  dends with respect to such stock.

11                  “(II) APPLICABLE PREFERRED  
12                  STOCK.—For purposes of subclause  
13                  (I), the term ‘applicable preferred  
14                  stock’ means preferred stock which  
15                  was issued before March 1, 2010 (or  
16                  which was issued after such date and  
17                  is held by an employee benefit plan  
18                  subject to the provisions of this title).

19                  “(F) OTHER DEFINITIONS AND RULES.—  
20                  For purposes of this paragraph—

21                  “(i) PLAN SPONSOR.—The term ‘ plan  
22                  sponsor’ includes any member of the plan  
23                  sponsor’s controlled group (as defined in  
24                  section 302(d)(3)).

1                   “(ii) RESTRICTION PERIOD.—The  
2 term ‘restriction period’ means, with re-  
3 spect to any election year—

4                   “(I) except as provided in sub-  
5 clause (II), the 3-year period begin-  
6 ning with the election year (or, if  
7 later, the first plan year beginning  
8 after December 31, 2009), and

9                   “(II) if the plan sponsor elects  
10 15-year amortization for the shortfall  
11 amortization base for the election  
12 year, the 5-year period beginning with  
13 the election year (or, if later, the first  
14 plan year beginning after December  
15 31, 2009).

16                   “(iii) ELECTIONS FOR MULTIPLE  
17 PLANS.—If a plan sponsor makes elections  
18 under paragraph (2)(D) with respect to 2  
19 or more plans, the Secretary of the Treas-  
20 ury shall provide rules for the application  
21 of this paragraph to such plans, including  
22 rules for the ratable allocation of any in-  
23 stallment acceleration amount among such  
24 plans on the basis of each plan’s relative  
25 reduction in the plan’s shortfall amortiza-



1 without regard to any increase under subsection  
2 (e)(7).”.

3 (b) AMENDMENTS TO INTERNAL REVENUE CODE OF  
4 1986.—

5 (1) IN GENERAL.—Paragraph (2) of section  
6 430(c) is amended by adding at the end the fol-  
7 lowing subparagraph:

8 “(D) SPECIAL ELECTION FOR ELIGIBLE  
9 PLAN YEARS.—

10 “(i) IN GENERAL.—If a plan sponsor  
11 elects to apply this subparagraph with re-  
12 spect to the shortfall amortization base of  
13 a plan for any eligible plan year (in this  
14 subparagraph and paragraph (7) referred  
15 to as an ‘election year’), then, notwith-  
16 standing subparagraphs (A) and (B)—

17 “(I) the shortfall amortization in-  
18 stallments with respect to such base  
19 shall be determined under clause (ii)  
20 or (iii), whichever is specified in the  
21 election, and

22 “(II) the shortfall amortization  
23 installment for any plan year in the 9-  
24 plan-year period described in clause  
25 (ii) or the 15-plan-year period de-

1 scribed in clause (iii), respectively,  
2 with respect to such shortfall amorti-  
3 zation base is the annual installment  
4 determined under the applicable  
5 clause for that year for that base.

6 “(ii) 2 PLUS 7 AMORTIZATION SCHED-  
7 ULE.—The shortfall amortization install-  
8 ments determined under this clause are—

9 “(I) in the case of the first 2  
10 plan years in the 9-plan-year period  
11 beginning with the election year, in-  
12 terest on the shortfall amortization  
13 base of the plan for the election year  
14 (determined using the effective inter-  
15 est rate for the plan for the election  
16 year), and

17 “(II) in the case of the last 7  
18 plan years in such 9-plan-year period,  
19 the amounts necessary to amortize the  
20 remaining balance of the shortfall am-  
21 ortization base of the plan for the  
22 election year in level annual install-  
23 ments over such last 7 plan years  
24 (using the segment rates under sub-  
25 paragraph (C) for the election year).

1                   “(iii) 15-YEAR AMORTIZATION.—The  
2                   shortfall amortization installments deter-  
3                   mined under this subparagraph are the  
4                   amounts necessary to amortize the short-  
5                   fall amortization base of the plan for the  
6                   election year in level annual installments  
7                   over the 15-plan-year period beginning  
8                   with the election year (using the segment  
9                   rates under subparagraph (C) for the elec-  
10                  tion year).

11                  “(iv) ELECTION.—

12                   “(I) IN GENERAL.—The plan  
13                   sponsor of a plan may elect to have  
14                   this subparagraph apply to not more  
15                   than 2 eligible plan years with respect  
16                   to the plan, except that in the case of  
17                   a plan described in section 106 of the  
18                   Pension Protection Act of 2006, the  
19                   plan sponsor may only elect to have  
20                   this subparagraph apply to a plan  
21                   year beginning in 2011.

22                   “(II) AMORTIZATION SCHED-  
23                   ULE.—Such election shall specify  
24                   whether the amortization schedule  
25                   under clause (ii) or (iii) shall apply to



1 an election year, except that if a plan  
2 sponsor elects to have this subpara-  
3 graph apply to 2 eligible plan years,  
4 the plan sponsor must elect the same  
5 schedule for both years.

6 “(III) OTHER RULES.—Such  
7 election shall be made at such time,  
8 and in such form and manner, as  
9 shall be prescribed by the Secretary,  
10 and may be revoked only with the  
11 consent of the Secretary. The Sec-  
12 retary shall, before granting a revoca-  
13 tion request, provide the Pension Ben-  
14 efit Guaranty Corporation an oppor-  
15 tunity to comment on the conditions  
16 applicable to the treatment of any  
17 portion of the election year shortfall  
18 amortization base that remains  
19 unamortized as of the revocation date.

20 “(v) ELIGIBLE PLAN YEAR.—For pur-  
21 poses of this subparagraph, the term ‘eligi-  
22 ble plan year’ means any plan year begin-  
23 ning in 2008, 2009, 2010, or 2011, except  
24 that a plan year shall only be treated as an  
25 eligible plan year if the due date under

1 subsection (j)(1) for the payment of the  
2 minimum required contribution for such  
3 plan year occurs on or after the date of the  
4 enactment of this subparagraph.

5 “(vi) REPORTING.—A plan sponsor of  
6 a plan who makes an election under clause  
7 (i) shall—

8 “(I) give notice of the election to  
9 participants and beneficiaries of the  
10 plan, and

11 “(II) inform the Pension Benefit  
12 Guaranty Corporation of such election  
13 in such form and manner as the Di-  
14 rector of the Pension Benefit Guar-  
15 anty Corporation may prescribe.

16 “(vii) INCREASES IN REQUIRED IN-  
17 STALLMENTS IN CERTAIN CASES.—For in-  
18 creases in required contributions in cases  
19 of excess compensation or extraordinary  
20 dividends or stock redemptions, see para-  
21 graph (7).”.

22 (2) INCREASES IN REQUIRED CONTRIBUTIONS  
23 IF EXCESS COMPENSATION PAID.—Section 430(c) is  
24 amended by adding at the end the following para-  
25 graph:

1           “(7) INCREASES IN ALTERNATE REQUIRED IN-  
2           STALLMENTS IN CASES OF EXCESS COMPENSATION  
3           OR EXTRAORDINARY DIVIDENDS OR STOCK REDEMP-  
4           TIONS.—

5           “(A) IN GENERAL.—If there is an install-  
6           ment acceleration amount with respect to a  
7           plan for any plan year in the restriction period  
8           with respect to an election year under para-  
9           graph (2)(D), then the shortfall amortization  
10          installment otherwise determined and payable  
11          under such paragraph for such plan year shall,  
12          subject to the limitation under subparagraph  
13          (B), be increased by such amount.

14          “(B) TOTAL INSTALLMENTS LIMITED TO  
15          SHORTFALL BASE.—Subject to rules prescribed  
16          by the Secretary, if a shortfall amortization in-  
17          stallment with respect to any shortfall amorti-  
18          zation base for an election year is required to  
19          be increased for any plan year under subpara-  
20          graph (A)—

21                 “(i) such increase shall not result in  
22                 the amount of such installment exceeding  
23                 the present value of such installment and  
24                 all succeeding installments with respect to  
25                 such base (determined without regard to

1           such increase but after application of  
2           clause (ii)), and

3                   “(ii) subsequent shortfall amortization  
4           installments with respect to such base  
5           shall, in reverse order of the otherwise re-  
6           quired installments, be reduced to the ex-  
7           tent necessary to limit the present value of  
8           such subsequent shortfall amortization in-  
9           stallments (after application of this para-  
10          graph) to the present value of the remain-  
11          ing unamortized shortfall amortization  
12          base.

13                   “(C)     INSTALLMENT     ACCELERATION  
14          AMOUNT.—For purposes of this paragraph—

15                   “(i) IN GENERAL.—The term ‘install-  
16          ment acceleration amount’ means, with re-  
17          spect to any plan year in a restriction pe-  
18          riod with respect to an election year, the  
19          sum of—

20                           “(I) the aggregate amount of ex-  
21                           cess employee compensation deter-  
22                           mined under subparagraph (D) with  
23                           respect to all employees for the plan  
24                           year, plus

1                   “(II) the aggregate amount of  
2                   extraordinary dividends and redemp-  
3                   tions determined under subparagraph  
4                   (E) for the plan year.

5                   “(ii) ANNUAL LIMITATION.—The in-  
6                   stallment acceleration amount for any plan  
7                   year shall not exceed the excess (if any)  
8                   of—

9                   “(I) the sum of the shortfall am-  
10                  ortization installments for the plan  
11                  year and all preceding plan years in  
12                  the amortization period elected under  
13                  paragraph (2)(D) with respect to the  
14                  shortfall amortization base with re-  
15                  spect to an election year, determined  
16                  without regard to paragraph (2)(D)  
17                  and this paragraph, over

18                  “(II) the sum of the shortfall am-  
19                  ortization installments for such plan  
20                  year and all such preceding plan  
21                  years, determined after application of  
22                  paragraph (2)(D) (and in the case of  
23                  any preceding plan year, after applica-  
24                  tion of this paragraph).

1                   “(iii) CARRYOVER OF EXCESS IN-  
2                   STALLMENT ACCELERATION AMOUNTS.—

3                   “(I) IN GENERAL.—If the install-  
4                   ment acceleration amount for any  
5                   plan year (determined without regard  
6                   to clause (ii)) exceeds the limitation  
7                   under clause (ii), then, subject to sub-  
8                   clause (II), such excess shall be treat-  
9                   ed as an installment acceleration  
10                  amount with respect to the succeeding  
11                  plan year.

12                  “(II) CAP TO APPLY.—If any  
13                  amount treated as an installment ac-  
14                  celeration amount under subclause (I)  
15                  or this subclause with respect any  
16                  succeeding plan year, when added to  
17                  other installment acceleration  
18                  amounts (determined without regard  
19                  to clause (ii)) with respect to the plan  
20                  year, exceeds the limitation under  
21                  clause (ii), the portion of such amount  
22                  representing such excess shall be  
23                  treated as an installment acceleration  
24                  amount with respect to the next suc-  
25                  ceeding plan year.

1                   “(III) LIMITATION ON YEARS TO  
2                   WHICH AMOUNTS CARRIED FOR.—No  
3                   amount shall be carried under sub-  
4                   clause (I) or (II) to a plan year which  
5                   begins after the first plan year fol-  
6                   lowing the last plan year in the re-  
7                   striction period (or after the second  
8                   plan year following such last plan year  
9                   in the case of an election year with re-  
10                  spect to which 15-year amortization  
11                  was elected under paragraph (2)(D)).

12                  “(IV) ORDERING RULES.—For  
13                  purposes of applying subclause (II),  
14                  installment acceleration amounts for  
15                  the plan year (determined without re-  
16                  gard to any carryover under this  
17                  clause) shall be applied first against  
18                  the limitation under clause (ii) and  
19                  then carryovers to such plan year  
20                  shall be applied against such limita-  
21                  tion on a first-in, first-out basis.

22                  “(D) EXCESS EMPLOYEE COMPENSA-  
23                  TION.—For purposes of this paragraph—

24                  “(i) IN GENERAL.—The term ‘excess  
25                  employee compensation’ means, with re-

1           spect to any employee for any plan year,  
2           the excess (if any) of—

3                       “(I) the aggregate amount in-  
4                       cludible in income under this chapter  
5                       for remuneration during the calendar  
6                       year in which such plan year begins  
7                       for services performed by the em-  
8                       ployee for the plan sponsor (whether  
9                       or not performed during such cal-  
10                      endar year), over

11                     “(II) \$1,000,000.

12                     “(ii) AMOUNTS SET ASIDE FOR NON-  
13                     QUALIFIED DEFERRED COMPENSATION.—  
14                     If during any calendar year assets are set  
15                     aside or reserved (directly or indirectly) in  
16                     a trust (or other arrangement as deter-  
17                     mined by the Secretary), or transferred to  
18                     such a trust or other arrangement, by a  
19                     plan sponsor for purposes of paying de-  
20                     ferred compensation of an employee under  
21                     a nonqualified deferred compensation plan  
22                     (as defined in section 409A) of the plan  
23                     sponsor, then, for purposes of clause (i),  
24                     the amount of such assets shall be treated  
25                     as remuneration of the employee includible



1 in income for the calendar year unless such  
2 amount is otherwise includible in income  
3 for such year. An amount to which the  
4 preceding sentence applies shall not be  
5 taken into account under this paragraph  
6 for any subsequent calendar year.

7 “(iii) ONLY REMUNERATION FOR CER-  
8 TAIN POST-2009 SERVICES COUNTED.—Re-  
9 munerations shall be taken into account  
10 under clause (i) only to the extent attrib-  
11 utable to services performed by the em-  
12 ployee for the plan sponsor after February  
13 28, 2010.

14 “(iv) EXCEPTION FOR CERTAIN EQ-  
15 UITY PAYMENTS.—

16 “(I) IN GENERAL.—There shall  
17 not be taken into account under  
18 clause (i)(I) any amount includible in  
19 income with respect to the granting  
20 after February 28, 2010, of service  
21 recipient stock (within the meaning of  
22 section 409A) that, upon such grant,  
23 is subject to a substantial risk of for-  
24 feiture (as defined under section

1 83(c)(1)) for at least 5 years from the  
2 date of such grant.

3 “(II) SECRETARIAL AUTHOR-  
4 ITY.—The Secretary may by regula-  
5 tion provide for the application of this  
6 clause in the case of a person other  
7 than a corporation.

8 “(v) OTHER EXCEPTIONS.—The fol-  
9 lowing amounts includible in income shall  
10 not be taken into account under clause  
11 (i)(I):

12 “(I) COMMISSIONS.—Any remu-  
13 nation payable on a commission  
14 basis solely on account of income di-  
15 rectly generated by the individual per-  
16 formance of the individual to whom  
17 such remuneration is payable.

18 “(II) CERTAIN PAYMENTS UNDER  
19 EXISTING CONTRACTS.—Any remu-  
20 nation consisting of nonqualified de-  
21 ferred compensation, restricted stock,  
22 stock options, or stock appreciation  
23 rights payable or granted under a  
24 written binding contract that was in  
25 effect on March 1, 2010, and which

1 was not modified in any material re-  
2 spect before such remuneration is  
3 paid.

4 “(vi) SELF-EMPLOYED INDIVIDUAL  
5 TREATED AS EMPLOYEE.—The term ‘em-  
6 ployee’ includes, with respect to a calendar  
7 year, a self-employed individual who is  
8 treated as an employee under section  
9 401(c) for the taxable year ending during  
10 such calendar year, and the term ‘com-  
11 pensation’ shall include earned income of  
12 such individual with respect to such self-  
13 employment.

14 “(vii) INDEXING OF AMOUNT.—In the  
15 case of any calendar year beginning after  
16 2010, the dollar amount under clause  
17 (i)(II) shall be increased by an amount  
18 equal to—

19 “(I) such dollar amount, multi-  
20 plied by

21 “(II) the cost-of-living adjust-  
22 ment determined under section 1(f)(3)  
23 for the calendar year, determined by  
24 substituting ‘calendar year 2009’ for

1                   ‘calendar year 1992’ in subparagraph  
2                   (B) thereof.

3                   If the amount of any increase under clause  
4                   (i) is not a multiple of \$1,000, such in-  
5                   crease shall be rounded to the next lowest  
6                   multiple of \$1,000.

7                   “(E) EXTRAORDINARY DIVIDENDS AND  
8                   REDEMPTIONS.—

9                   “(i) IN GENERAL.—The amount de-  
10                  termined under this subparagraph for any  
11                  plan year is the excess (if any) of the sum  
12                  of the dividends declared during the plan  
13                  year by the plan sponsor plus the aggre-  
14                  gate amount paid for the redemption of  
15                  stock of the plan sponsor redeemed during  
16                  the plan year over the greater of—

17                  “(I) the adjusted net income  
18                  (within the meaning of section 4043  
19                  of the Employee Retirement Income  
20                  Security Act of 1974) of the plan  
21                  sponsor for the preceding plan year,  
22                  determined without regard to any re-  
23                  duction by reason of interest, taxes,  
24                  depreciation, or amortization, or

1                   “(II) in the case of a plan spon-  
2                   sor that determined and declared divi-  
3                   dends in the same manner for at least  
4                   5 consecutive years immediately pre-  
5                   ceding such plan year, the aggregate  
6                   amount of dividends determined and  
7                   declared for such plan year using such  
8                   manner.

9                   “(ii) ONLY CERTAIN POST-2009 DIVI-  
10                  DENDS AND REDEMPTIONS COUNTED.—  
11                  For purposes of clause (i), there shall only  
12                  be taken into account dividends declared,  
13                  and redemptions occurring, after February  
14                  28, 2010.

15                  “(iii) EXCEPTION FOR INTRA-GROUP  
16                  DIVIDENDS.—Dividends paid by one mem-  
17                  ber of a controlled group (as defined in  
18                  section 412(d)(3)) to another member of  
19                  such group shall not be taken into account  
20                  under clause (i).

21                  “(iv) EXCEPTION FOR CERTAIN RE-  
22                  DEMPTIONS.—Redemptions that are made  
23                  pursuant to a plan maintained with respect  
24                  to employees, or that are made on account  
25                  of the death, disability, or termination of

1 employment of an employee or shareholder,  
2 shall not be taken into account under  
3 clause (i).

4 “(v) EXCEPTION FOR CERTAIN PRE-  
5 FERRED STOCK.—

6 “(I) IN GENERAL.—Dividends  
7 and redemptions with respect to appli-  
8 cable preferred stock shall not be  
9 taken into account under clause (i) to  
10 the extent that dividends accrue with  
11 respect to such stock at a specified  
12 rate in all events and without regard  
13 to the plan sponsor’s income, and in-  
14 terest accrues on any unpaid divi-  
15 dends with respect to such stock.

16 “(II) APPLICABLE PREFERRED  
17 STOCK.—For purposes of subclause  
18 (I), the term ‘applicable preferred  
19 stock’ means preferred stock which  
20 was issued before March 1, 2010 (or  
21 which was issued after such date and  
22 is held by an employee benefit plan  
23 subject to the provisions of title I of  
24 Employee Retirement Income Security  
25 Act of 1974).

1                   “(F) OTHER DEFINITIONS AND RULES.—

2                   For purposes of this paragraph—

3                   “(i) PLAN SPONSOR.—The term ‘ plan  
4                   sponsor’ includes any member of the plan  
5                   sponsor’s controlled group (as defined in  
6                   section 412(d)(3)).

7                   “(ii) RESTRICTION PERIOD.—The  
8                   term ‘restriction period’ means, with re-  
9                   spect to any election year—

10                   “(I) except as provided in sub-  
11                   clause (II), the 3-year period begin-  
12                   ning with the election year (or, if  
13                   later, the first plan year beginning  
14                   after December 31, 2009), and

15                   “(II) if the plan sponsor elects  
16                   15-year amortization for the shortfall  
17                   amortization base for the election  
18                   year, the 5-year period beginning with  
19                   the election year (or, if later, the first  
20                   plan year beginning after December  
21                   31, 2009).

22                   “(iii) ELECTIONS FOR MULTIPLE  
23                   PLANS.—If a plan sponsor makes elections  
24                   under paragraph (2)(D) with respect to 2  
25                   or more plans, the Secretary shall provide

1 rules for the application of this paragraph  
2 to such plans, including rules for the rat-  
3 able allocation of any installment accelera-  
4 tion amount among such plans on the  
5 basis of each plan's relative reduction in  
6 the plan's shortfall amortization install-  
7 ment for the first plan year in the amorti-  
8 zation period described in subparagraph  
9 (A) (determined without regard to this  
10 paragraph).

11 “(iv) MERGERS AND ACQUISITIONS.—  
12 The Secretary shall prescribe rules for the  
13 application of paragraph (2)(D) and this  
14 paragraph in any case where there is a  
15 merger or acquisition involving a plan  
16 sponsor making the election under para-  
17 graph (2)(D).”.

18 (3) CONFORMING AMENDMENTS.—Section 430  
19 is amended—

20 (A) in subsection (c)(1), by striking “the  
21 shortfall amortization bases for such plan year  
22 and each of the 6 preceding plan years” and in-  
23 serting “any shortfall amortization base which  
24 has not been fully amortized under this sub-  
25 section”, and



1 (B) in subsection (j)(3), by adding at the  
2 end the following:

3 “(F) QUARTERLY CONTRIBUTIONS NOT TO  
4 INCLUDE CERTAIN INCREASED CONTRIBU-  
5 TIONS.—Subparagraph (D) shall be applied  
6 without regard to any increase under subsection  
7 (c)(7).”.

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

11 **SEC. 202. APPLICATION OF EXTENDED AMORTIZATION PE-**  
12 **RIOD TO PLANS SUBJECT TO PRIOR LAW**  
13 **FUNDING RULES.**

14 (a) IN GENERAL.—Title I of the Pension Protection  
15 Act of 2006 is amended by redesignating section 107 as  
16 section 108 and by inserting the following after section  
17 106:

18 **“SEC. 107. APPLICATION OF EXTENDED AMORTIZATION PE-**  
19 **RIODS TO PLANS WITH DELAYED EFFECTIVE**  
20 **DATE.**

21 “(a) IN GENERAL.—If the plan sponsor of a plan to  
22 which section 104, 105, or 106 of this Act applies elects  
23 to have this section apply for any eligible plan year (in  
24 this section referred to as an ‘election year’), section 302  
25 of the Employee Retirement Income Security Act of 1974

1 and section 412 of the Internal Revenue Code of 1986  
2 (as in effect before the amendments made by this subtitle  
3 and subtitle B) shall apply to such year in the manner  
4 described in subsection (b) or (c), whichever is specified  
5 in the election. All references in this section to ‘such Act’  
6 or ‘such Code’ shall be to such Act or such Code as in  
7 effect before the amendments made by this subtitle and  
8 subtitle B.

9 “(b) APPLICATION OF 2 AND 7 RULE.—In the case  
10 of an election year to which this subsection applies—

11 “(1) 2-YEAR LOOKBACK FOR DETERMINING  
12 DEFICIT REDUCTION CONTRIBUTIONS FOR CERTAIN  
13 PLANS.—For purposes of applying section 302(d)(9)  
14 of such Act and section 412(l)(9) of such Code, the  
15 funded current liability percentage (as defined in  
16 subparagraph (C) thereof) for such plan for such  
17 plan year shall be such funded current liability per-  
18 centage of such plan for the second plan year pre-  
19 ceding the first election year of such plan.

20 “(2) CALCULATION OF DEFICIT REDUCTION  
21 CONTRIBUTION.—For purposes of applying section  
22 302(d) of such Act and section 412(l) of such Code  
23 to a plan to which such sections apply (after taking  
24 into account paragraph (1))—

1           “(A) in the case of the increased unfunded  
2           new liability of the plan, the applicable percent-  
3           age described in section 302(d)(4)(C) of such  
4           Act and section 412(l)(4)(C) of such Code shall  
5           be the third segment rate described in sections  
6           104(b), 105(b), and 106(b) of this Act, and

7           “(B) in the case of the excess of the un-  
8           funded new liability over the increased un-  
9           funded new liability, such applicable percentage  
10          shall be determined without regard to this sec-  
11          tion.

12          “(c) APPLICATION OF 15-YEAR AMORTIZATION.—In  
13          the case of an election year to which this subsection ap-  
14          plies, for purposes of applying section 302(d) of such Act  
15          and section 412(l) of such Code—

16                 “(1) in the case of the increased unfunded new  
17                 liability of the plan, the applicable percentage de-  
18                 scribed in section 302(d)(4)(C) of such Act and sec-  
19                 tion 412(l)(4)(C) of such Code for any pre-effective  
20                 date plan year beginning with or after the first elec-  
21                 tion year shall be the ratio of—

22                         “(A) the annual installments payable in  
23                         each year if the increased unfunded new liabil-  
24                         ity for such plan year were amortized over 15  
25                         years, using an interest rate equal to the third

1 segment rate described in sections 104(b),  
2 105(b), and 106(b) of this Act, to

3 “(B) the increased unfunded new liability  
4 for such plan year, and

5 “(2) in the case of the excess of the unfunded  
6 new liability over the increased unfunded new liabil-  
7 ity, such applicable percentage shall be determined  
8 without regard to this section.

9 “(d) ELECTION.—

10 “(1) IN GENERAL.—The plan sponsor of a plan  
11 may elect to have this section apply to not more  
12 than 2 eligible plan years with respect to the plan,  
13 except that in the case of a plan to which section  
14 106 of this Act applies, the plan sponsor may only  
15 elect to have this section apply to 1 eligible plan  
16 year.

17 “(2) AMORTIZATION SCHEDULE.—Such election  
18 shall specify whether the rules under subsection (b)  
19 or (c) shall apply to an election year, except that if  
20 a plan sponsor elects to have this section apply to  
21 2 eligible plan years, the plan sponsor must elect the  
22 same rule for both years.

23 “(3) OTHER RULES.—Such election shall be  
24 made at such time, and in such form and manner,  
25 as shall be prescribed by the Secretary of the Treas-

1       ury, and may be revoked only with the consent of  
2       the Secretary of the Treasury.

3       “(e) DEFINITIONS.—For purposes of this section—

4               “(1) ELIGIBLE PLAN YEAR.—For purposes of  
5       this subparagraph, the term ‘eligible plan year’  
6       means any plan year beginning in 2008, 2009, 2010,  
7       or 2011, except that a plan year beginning in 2008  
8       shall only be treated as an eligible plan year if the  
9       due date for the payment of the minimum required  
10      contribution for such plan year occurs on or after  
11      the date of the enactment of this clause.

12              “(2) PRE-EFFECTIVE DATE PLAN YEAR.—The  
13      term ‘pre-effective date plan year’ means, with re-  
14      spect to a plan, any plan year prior to the first year  
15      in which the amendments made by this subtitle and  
16      subtitle B apply to the plan.

17              “(3) INCREASED UNFUNDED NEW LIABILITY.—  
18      The term ‘increased unfunded new liability’ means,  
19      with respect to a year, the excess (if any) of the un-  
20      funded new liability over the amount of unfunded  
21      new liability determined as if the value of the plan’s  
22      assets determined under subsection 302(c)(2) of  
23      such Act and section 412(c)(2) of such Code equaled  
24      the product of the current liability of the plan for  
25      the year multiplied by the funded current liability

1 percentage (as defined in section 302(d)(8)(B) of  
2 such Act and 412(l)(8)(B) of such Code) of the plan  
3 for the second plan year preceding the first election  
4 year of such plan.

5 “(4) OTHER DEFINITIONS.—The terms ‘un-  
6 funded new liability’ and ‘current liability’ shall have  
7 the meanings set forth in section 302(d) of such Act  
8 and section 412(l) of such Code.”.

9 (b) ELIGIBLE CHARITY PLANS.—Section 104 of the  
10 Pension Protection Act of 2006 is amended—

11 (1) by striking “eligible cooperative plan” wher-  
12 ever it appears in subsections (a) and (b) and insert-  
13 ing “eligible cooperative plan or an eligible charity  
14 plan”, and

15 (2) by adding at the end the following new sub-  
16 section:

17 “(d) ELIGIBLE CHARITY PLAN DEFINED.—For pur-  
18 poses of this section, a plan shall be treated as an eligible  
19 charity plan for a plan year if the plan is maintained by  
20 more than one employer (determined without regard to  
21 section 414(c) of the Internal Revenue Code) and 100 per-  
22 cent of the employers are described in section 501(c)(3)  
23 of such Code.”.

24 (c) EFFECTIVE DATE.—

1           (1) IN GENERAL.—The amendment made by  
2 subsection (a) shall take effect as if included in the  
3 Pension Protection Act of 2006.

4           (2) ELIGIBLE CHARITY PLAN.—The amend-  
5 ments made by subsection (b) shall apply to plan  
6 years beginning after December 31, 2007, except  
7 that a plan sponsor may elect to apply such amend-  
8 ments to plan years beginning after December 31,  
9 2008. Any such election shall be made at such time,  
10 and in such form and manner, as shall be prescribed  
11 by the Secretary of the Treasury, and may be re-  
12 voked only with the consent of the Secretary of the  
13 Treasury.

14 **SEC. 203. LOOKBACK FOR CERTAIN BENEFIT RESTRIC-**  
15 **TIONS.**

16 (a) IN GENERAL.—

17           (1) AMENDMENT TO ERISA.—Section 206(g)(9)  
18 of the Employee Retirement Income Security Act of  
19 1974 is amended by adding at the end the following:

20           “(D) SPECIAL RULE FOR CERTAIN  
21 YEARS.—Solely for purposes of any applicable  
22 provision—

23           “(i) IN GENERAL.—For plan years be-  
24 ginning on or after October 1, 2008, and  
25 before October 1, 2010, the adjusted fund-

1                   ing target attainment percentage of a plan  
2                   shall be the greater of—

3                   “**(I)** such percentage, as deter-  
4                   mined without regard to this subpara-  
5                   graph, or

6                   “**(II)** the adjusted funding target  
7                   attainment percentage for such plan  
8                   for the plan year beginning after Oc-  
9                   tober 1, 2007, and before October 1,  
10                  2008, as determined under rules pre-  
11                  scribed by the Secretary of the Treas-  
12                  ury.

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

16                  “(I) clause (i) shall apply to plan  
17                  years beginning after December 31,  
18                  2007, and before January 1, 2010,  
19                  and

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



1                   “(iii) APPLICABLE PROVISION.—For  
2 purposes of this subparagraph, the term  
3 ‘applicable provision’ means—

4                   “(I) paragraph (3), but only for  
5 purposes of applying such paragraph  
6 to a payment which, as determined  
7 under rules prescribed by the Sec-  
8 retary of the Treasury, is a payment  
9 under a social security leveling option  
10 which accelerates payments under the  
11 plan before, and reduces payments  
12 after, a participant starts receiving so-  
13 cial security benefits in order to pro-  
14 vide substantially similar aggregate  
15 payments both before and after such  
16 benefits are received, and

17                   “(II) paragraph (4).”.

18                   (2) AMENDMENT TO INTERNAL REVENUE CODE  
19 OF 1986.—Section 436(j) of the Internal Revenue  
20 Code of 1986 is amended by adding at the end the  
21 following:

22                   “(3) SPECIAL RULE FOR CERTAIN YEARS.—  
23 Solely for purposes of any applicable provision—

24                   “(A) IN GENERAL.—For plan years begin-  
25 ning on or after October 1, 2008, and before

1           October 1, 2010, the adjusted funding target  
2           attainment percentage of a plan shall be the  
3           greater of—

4                   “(i) such percentage, as determined  
5                   without regard to this paragraph, or

6                   “(ii) the adjusted funding target at-  
7                   tainment percentage for such plan for the  
8                   plan year beginning after October 1, 2007,  
9                   and before October 1, 2008, as determined  
10                  under rules prescribed by the Secretary.

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

14                   “(i) subparagraph (A) shall apply to  
15                   plan years beginning after December 31,  
16                   2007, and before January 1, 2010, and

17                   “(ii) subparagraph (A)(ii) shall apply  
18                   based on the last plan year beginning be-  
19                   fore November 1, 2007, as determined  
20                   under rules prescribed by the Secretary.

21                 “(C) APPLICABLE PROVISION.—For pur-  
22                 poses of this paragraph, the term ‘applicable  
23                 provision’ means—

24                   “(i) subsection (d), but only for pur-  
25                   poses of applying such paragraph to a pay-

1           ment which, as determined under rules  
2           prescribed by the Secretary, is a payment  
3           under a social security leveling option  
4           which accelerates payments under the plan  
5           before, and reduces payments after, a par-  
6           ticipant starts receiving social security ben-  
7           efits in order to provide substantially simi-  
8           lar aggregate payments both before and  
9           after such benefits are received, and  
10           “(ii) subsection (e).”.

11           (b) INTERACTION WITH WRERA RULE.—Section 203  
12 of the Worker, Retiree, and Employer Recovery Act of  
13 2008 shall apply to a plan for any plan year in lieu of  
14 the amendments made by this section applying to sections  
15 206(g)(4) of the Employee Retirement Income Security  
16 Act of 1974 and 436(e) of the Internal Revenue Code of  
17 1986 only to the extent that such section produces a high-  
18 er adjusted funding target attainment percentage for such  
19 plan for such year.

20           (c) EFFECTIVE DATE.—

21           (1) IN GENERAL.—Except as provided in para-  
22 graph (2), the amendments made by this section  
23 shall apply to plan years beginning on or after Octo-  
24 ber 1, 2008.



1 31, 2007, and before September 1,  
2 2008, as determined under rules pre-  
3 scribed by the Secretary of the Treas-  
4 ury.

5 “(ii) SPECIAL RULE.—In the case of a  
6 plan for which the valuation date is not the  
7 first day of the plan year—

8 “(I) clause (i) shall apply to plan  
9 years beginning after December 31,  
10 2008, and before January 1, 2011,  
11 and

12 “(II) clause (i)(II) shall apply  
13 based on the last plan year beginning  
14 before September 1, 2007, as deter-  
15 mined under rules prescribed by the  
16 Secretary of the Treasury.

17 “(iii) LIMITATION TO CHARITIES.—  
18 This subparagraph shall not apply to any  
19 plan unless such plan is maintained exclu-  
20 sively by one or more organizations de-  
21 scribed in section 501(c)(3) of the Internal  
22 Revenue Code of 1986.”.

23 (b) AMENDMENT TO INTERNAL REVENUE CODE OF  
24 1986.—Paragraph (3) of section 430(f) of the Internal

1 Revenue Code of 1986 is amended by adding the following  
2 at the end thereof:

3 “(D) SPECIAL RULE FOR CERTAIN YEARS  
4 OF PLANS MAINTAINED BY CHARITIES.—

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

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

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

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

22 “(I) clause (i) shall apply to plan  
23 years beginning after December 31,  
24 2007, and before January 1, 2010,  
25 and

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

6 “(iii) LIMITATION TO CHARITIES.—  
7 This subparagraph shall not apply to any  
8 plan unless such plan is maintained exclu-  
9 sively by one or more organizations de-  
10 scribed in section 501(c)(3).”.

11 (c) EFFECTIVE DATE.—

12 (1) IN GENERAL.—Except as provided in para-  
13 graph (2), the amendments made by this section  
14 shall apply to plan years beginning after August 31,  
15 2009.

16 (2) SPECIAL RULE.—In the case of a plan for  
17 which the valuation date is not the first day of the  
18 plan year, the amendments made by this section  
19 shall apply to plan years beginning after December  
20 31, 2008.

## 21 **Subtitle B—Multiemployer Plans**

### 22 **SEC. 211. ADJUSTMENTS TO FUNDING STANDARD ACCOUNT** 23 **RULES.**

24 (a) ADJUSTMENTS.—

1           (1) AMENDMENT TO ERISA.—Section 304(b) of  
2           the Employee Retirement Income Security Act of  
3           1974 (29 U.S.C. 1084(b)) is amended by adding at  
4           the end the following new paragraph:

5           “(8) SPECIAL RELIEF RULES.—Notwith-  
6           standing any other provision of this subsection—

7           “(A) AMORTIZATION OF NET INVESTMENT  
8           LOSSES.—

9           “(i) IN GENERAL.—A multiemployer  
10           plan with respect to which the solvency  
11           test under subparagraph (C) is met may  
12           treat the portion of any experience loss or  
13           gain attributable to net investment losses  
14           incurred in either or both of the first two  
15           plan years ending after August 31, 2008,  
16           as an item separate from other experience  
17           losses, to be amortized in equal annual in-  
18           stallments (until fully amortized) over the  
19           period —

20           “(I) beginning with the plan year  
21           in which such portion is first recog-  
22           nized in the actuarial value of assets,  
23           and

24           “(II) ending with the last plan  
25           year in the 30-plan year period begin-



1                   ning with the plan year in which such  
2                   net investment loss was incurred.

3                   “(ii) COORDINATION WITH EXTEN-  
4                   SIONS.—If this subparagraph applies for  
5                   any plan year—

6                   “ (I) no extension of the amorti-  
7                   zation period under clause (i) shall be  
8                   allowed under subsection (d), and

9                   “ (II) if an extension was granted  
10                  under subsection (d) for any plan year  
11                  before the election to have this sub-  
12                  paragraph apply to the plan year,  
13                  such extension shall not result in such  
14                  amortization period exceeding 30  
15                  years.

16                  “(iii) NET INVESTMENT LOSSES.—For  
17                  purposes of this subparagraph—

18                  “ (I) IN GENERAL.—Net invest-  
19                  ment losses shall be determined in the  
20                  manner prescribed by the Secretary of  
21                  the Treasury on the basis of the dif-  
22                  ference between actual and expected  
23                  returns (including any difference at-  
24                  tributable to any criminally fraudulent  
25                  investment arrangement).

1                   “(II) CRIMINALLY FRAUDULENT  
2                   INVESTMENT ARRANGEMENTS.—The  
3                   determination as to whether an ar-  
4                   rangement is a criminally fraudulent  
5                   investment arrangement shall be made  
6                   under rules substantially similar to  
7                   the rules prescribed by the Secretary  
8                   of the Treasury for purposes of sec-  
9                   tion 165 of the Internal Revenue Code  
10                  of 1986.

11                  “(B) EXPANDED SMOOTHING PERIOD.—

12                  “(i) IN GENERAL.—A multiemployer  
13                  plan with respect to which the solvency  
14                  test under subparagraph (C) is met may  
15                  change its asset valuation method in a  
16                  manner which—

17                  “(I) spreads the difference be-  
18                  tween expected and actual returns for  
19                  either or both of the first 2 plan years  
20                  ending after August 31, 2008, over a  
21                  period of not more than 10 years,

22                  “(II) provides that for either or  
23                  both of the first 2 plan years begin-  
24                  ning after August 31, 2008, the value  
25                  of plan assets at any time shall not be

1 less than 80 percent or greater than  
2 130 percent of the fair market value  
3 of such assets at such time, or

4 “(III) makes both changes de-  
5 scribed in subclauses (I) and (II) to  
6 such method.

7 “(ii) ASSET VALUATION METHODS.—  
8 If this subparagraph applies for any plan  
9 year—

10 “(I) the Secretary of the Treas-  
11 ury shall not treat the asset valuation  
12 method of the plan as unreasonable  
13 solely because of the changes in such  
14 method described in clause (i), and

15 “(II) such changes shall be  
16 deemed approved by such Secretary  
17 under section 302(d)(1) and section  
18 412(d)(1) of such Code.

19 “(iii) AMORTIZATION OF REDUCTION  
20 IN UNFUNDED ACCRUED LIABILITY.—If  
21 this subparagraph and subparagraph (A)  
22 both apply for any plan year, the plan shall  
23 treat any reduction in unfunded accrued li-  
24 ability resulting from the application of  
25 this subparagraph as a separate experience



1 the application of this paragraph to  
2 the plan, and

3 “(II) the plan’s funded percent-  
4 age and projected credit balances for  
5 such 2 plan years are reasonably ex-  
6 pected to be at least as high as such  
7 percentage and balances would have  
8 been if the benefit increase had not  
9 been adopted, or

10 “(ii) the amendment is required as a  
11 condition of qualification under part I of  
12 subchapter D of chapter 1 of the Internal  
13 Revenue Code of 1986 or to comply with  
14 other applicable law.

15 “(E) REPORTING.—A plan sponsor of a  
16 plan to which this paragraph applies shall—

17 “(i) give notice of such application to  
18 participants and beneficiaries of the plan,  
19 and

20 “(ii) inform the Pension Benefit  
21 Guaranty Corporation of such application  
22 in such form and manner as the Director  
23 of the Pension Benefit Guaranty Corpora-  
24 tion may prescribe.”.



1                   ning with the plan year in which such  
2                   net investment loss was incurred.

3                   “(ii) COORDINATION WITH EXTEN-  
4                   SIONS.—If this subparagraph applies for  
5                   any plan year—

6                   “ (I) no extension of the amorti-  
7                   zation period under clause (i) shall be  
8                   allowed under subsection (d), and

9                   “ (II) if an extension was granted  
10                  under subsection (d) for any plan year  
11                  before the election to have this sub-  
12                  paragraph apply to the plan year,  
13                  such extension shall not result in such  
14                  amortization period exceeding 30  
15                  years.

16                  “(iii) NET INVESTMENT LOSSES.—For  
17                  purposes of this subparagraph—

18                  “ (I) IN GENERAL.—Net invest-  
19                  ment losses shall be determined in the  
20                  manner prescribed by the Secretary  
21                  on the basis of the difference between  
22                  actual and expected returns (including  
23                  any difference attributable to any  
24                  criminally fraudulent investment ar-  
25                  rangement).

1                   “(II) CRIMINALLY FRAUDULENT  
2                   INVESTMENT ARRANGEMENTS.—The  
3                   determination as to whether an ar-  
4                   rangement is a criminally fraudulent  
5                   investment arrangement shall be made  
6                   under rules substantially similar to  
7                   the rules prescribed by the Secretary  
8                   for purposes of section 165.

9                   “(B) EXPANDED SMOOTHING PERIOD.—

10                   “(i) IN GENERAL.—A multiemployer  
11                   plan with respect to which the solvency  
12                   test under subparagraph (C) is met may  
13                   change its asset valuation method in a  
14                   manner which—

15                   “(I) spreads the difference be-  
16                   tween expected and actual returns for  
17                   either or both of the first 2 plan years  
18                   ending after August 31, 2008, over a  
19                   period of not more than 10 years,

20                   “(II) provides that for either or  
21                   both of the first 2 plan years begin-  
22                   ning after August 31, 2008, the value  
23                   of plan assets at any time shall not be  
24                   less than 80 percent or greater than



1 130 percent of the fair market value  
2 of such assets at such time, or

3 “(III) makes both changes de-  
4 scribed in subclauses (I) and (II) to  
5 such method.

6 “(ii) ASSET VALUATION METHODS.—  
7 If this subparagraph applies for any plan  
8 year—

9 “(I) the Secretary shall not treat  
10 the asset valuation method of the plan  
11 as unreasonable solely because of the  
12 changes in such method described in  
13 clause (i), and

14 “(II) such changes shall be  
15 deemed approved by the Secretary  
16 under section 302(d)(1) of the Em-  
17 ployee Retirement Income Security  
18 Act of 1974 and section 412(d)(1).

19 “(iii) AMORTIZATION OF REDUCTION  
20 IN UNFUNDED ACCRUED LIABILITY.—If  
21 this subparagraph and subparagraph (A)  
22 both apply for any plan year, the plan shall  
23 treat any reduction in unfunded accrued li-  
24 ability resulting from the application of  
25 this subparagraph as a separate experience



1 the application of this paragraph to  
2 the plan, and

3 “(II) the plan’s funded percent-  
4 age and projected credit balances for  
5 such 2 plan years are reasonably ex-  
6 pected to be at least as high as such  
7 percentage and balances would have  
8 been if the benefit increase had not  
9 been adopted, or

10 “(ii) the amendment is required as a  
11 condition of qualification under part I of  
12 subchapter D or to comply with other ap-  
13 plicable law.

14 “(E) REPORTING.—A plan sponsor of a  
15 plan to which this paragraph applies shall—

16 “(i) give notice of such application to  
17 participants and beneficiaries of the plan,  
18 and

19 “(ii) inform the Pension Benefit  
20 Guaranty Corporation of such application  
21 in such form and manner as the Director  
22 of the Pension Benefit Guaranty Corpora-  
23 tion may prescribe.”.

24 (b) EFFECTIVE DATES.—

1           (1) IN GENERAL.—The amendments made by  
2 this section shall take effect as of the first day of  
3 the first plan year ending after August 31, 2008, ex-  
4 cept that any election a plan makes pursuant to this  
5 section that affects the plan’s funding standard ac-  
6 count for the first plan year beginning after August  
7 31, 2008, shall be disregarded for purposes of apply-  
8 ing the provisions of section 305 of the Employee  
9 Retirement Income Security Act of 1974 and section  
10 432 of the Internal Revenue Code of 1986 to such  
11 plan year.

12           (2) RESTRICTIONS ON BENEFIT INCREASES.—  
13 Notwithstanding paragraph (1), the restrictions on  
14 plan amendments increasing benefits in sections  
15 304(b)(8)(D) of such Act and 431(b)(8)(D) of such  
16 Code, as added by this section, shall take effect on  
17 the date of enactment of this Act.

## 18           **TITLE III—BUDGETARY** 19           **PROVISIONS**

### 20   **SEC. 301. BUDGETARY PROVISIONS.**

21           The budgetary effects of this Act, for the purpose of  
22 complying with the Statutory Pay-As-You-Go-Act of 2010,  
23 shall be determined by reference to the latest statement  
24 titled “Budgetary Effects of PAYGO Legislation” for this  
25 Act, submitted for printing in the Congressional Record

1 by the Chairman of the Senate Budget Committee, pro-  
2 vided that such statement has been submitted prior to the  
3 vote on passage.

Amend the title so as to read: “An Act to provide a physician payment update, to provide pension funding relief, and for other purposes.”.