

108<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5365

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 19, 2004

Received

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## AN ACT

To treat certain arrangements maintained by the YMCA Retirement Fund as church plans for the purposes of certain provisions of the Internal Revenue Code of 1986, and for other purposes.

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

1 **SECTION 1. CERTAIN ARRANGEMENTS MAINTAINED BY**  
2 **THE YMCA RETIREMENT FUND TREATED AS**  
3 **CHURCH PLANS.**

4 (a) RETIREMENT PLANS.—

5 (1) IN GENERAL.—For purposes of sections  
6 401(a) and 403(b) of the Internal Revenue Code of  
7 1986, any retirement plan maintained by the YMCA  
8 Retirement Fund as of January 1, 2003, shall be  
9 treated as a church plan (within the meaning of sec-  
10 tion 414(e) of such Code) which is maintained by an  
11 organization described in section 414(e)(3)(A) of  
12 such Code.

13 (2) TAX-DEFERRED RETIREMENT PLAN.—In  
14 the case of a retirement plan described in paragraph  
15 (1) which allows contributions to be made under a  
16 salary reduction agreement—

17 (A) such treatment shall not apply for pur-  
18 poses of section 415(c)(7) of such Code, and

19 (B) any account maintained for a partici-  
20 pant or beneficiary of such plan shall be treated  
21 for purposes of such Code as a retirement in-  
22 come account described in section 403(b)(9) of  
23 such Code, except that such account shall not,  
24 for purposes of section 403(b)(12) of such  
25 Code, be treated as a contract purchased by a

1 church for purposes of section 403(b)(1)(D) of  
2 such Code.

3 (3) MONEY PURCHASE PENSION PLAN.—In the  
4 case of a retirement plan described in paragraph (1)  
5 which is subject to the requirements of section  
6 401(a) of such Code—

7 (A) such plan (but not any reserves held  
8 by the YMCA Retirement Fund)—

9 (i) shall be treated for purposes of  
10 such Code as a defined contribution plan  
11 which is a money purchase pension plan,  
12 and

13 (ii) shall be treated as having made  
14 an election under section 410(d) of such  
15 Code for plan years beginning after De-  
16 cember 31, 2005, except that notwith-  
17 standing the election—

18 (I) nothing in the Employee Re-  
19 tirement Income Security Act of 1974  
20 or such Code shall prohibit the YMCA  
21 Retirement Fund from commingling  
22 for investment purposes the assets of  
23 the electing plan with the assets of  
24 such Fund and with the assets of any

1 employee benefit plan maintained by  
2 such Fund, and

3 (II) nothing in this section shall  
4 be construed as subjecting any assets  
5 described in subclause (I), other than  
6 the assets of the electing plan, to any  
7 provision of such Act,

8 (B) notwithstanding section 401(a)(11) or  
9 417 of such Code or section 205 of such Act,  
10 such plan may offer a lump-sum distribution  
11 option to participants who have not attained  
12 age 55 without offering such participants an  
13 annuity option, and

14 (C) any account maintained for a partici-  
15 pant or beneficiary of such plan shall, for pur-  
16 poses of section 401(a)(9) of such Code, be  
17 treated as a retirement income account de-  
18 scribed in section 403(b)(9) of such Code.

19 (4) SELF-FUNDED DEATH BENEFIT PLAN.—  
20 For purposes of section 7702(j) of such Code, a re-  
21 tirement plan described in paragraph (1) shall be  
22 treated as an arrangement described in section  
23 7702(j)(2).

24 (b) YMCA RETIREMENT FUND.—For purposes of  
25 this section, the term “YMCA Retirement Fund” means

1 the Young Men’s Christian Association Retirement Fund,  
2 a corporation created by an Act of the State of New York  
3 which became law on April 30, 1921.

4 (c) EFFECTIVE DATE.—This section shall apply to  
5 plan years beginning after December 31, 2003.

Passed the House of Representatives November 19,  
2004.

Attest:

JEFF TRANDAHL,

*Clerk.*