

113TH CONGRESS
2^D SESSION

H. R. 4275

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide for cooperative and small employer charity pension plans.

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 2014

Mrs. BROOKS of Indiana (for herself and Mr. KIND) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide for cooperative and small employer charity pension plans.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Cooperative and Small Employer Charity Pension Flexi-
6 bility Act”.

1 (b) **TABLE OF CONTENTS.**—The table of contents of
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Congressional findings and declarations of policy.
- Sec. 3. Effective date.

TITLE I—AMENDMENTS TO EMPLOYEE RETIREMENT INCOME
 SECURITY ACT OF 1974 AND OTHER PROVISIONS

- Sec. 101. Definition of cooperative and small employer charity pension plans.
- Sec. 102. Funding rules applicable to cooperative and small employer charity pension plans.
- Sec. 103. Elections.
- Sec. 104. Transparency.
- Sec. 105. Sponsor education and assistance.

TITLE II—AMENDMENTS TO INTERNAL REVENUE CODE OF 1986

- Sec. 201. Definition of cooperative and small employer charity pension plans.
- Sec. 202. Funding rules applicable to cooperative and small employer charity pension plans.
- Sec. 203. Election not to be treated as a CSEC plan.

3 **SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATIONS OF**
 4 **POLICY.**

5 Congress finds as follows:

6 (1) Defined benefit pension plans are a cost-ef-
 7 fective way for cooperative associations and charities
 8 to provide their employees with economic security in
 9 retirement.

10 (2) Many cooperative associations and chari-
 11 table organizations are only able to provide their em-
 12 ployees with defined benefit pension plans because
 13 those organizations are able to pool their resources
 14 using the multiple employer plan structure.

1 (3) The pension funding rules should encourage
2 cooperative associations and charities to continue to
3 provide their employees with pension benefits.

4 **SEC. 3. EFFECTIVE DATE.**

5 Unless otherwise specified in this Act, the provisions
6 of this Act shall apply to years beginning after December
7 31, 2013.

8 **TITLE I—AMENDMENTS TO EM-**
9 **EMPLOYEE RETIREMENT IN-**
10 **COME SECURITY ACT OF 1974**
11 **AND OTHER PROVISIONS**

12 **SEC. 101. DEFINITION OF COOPERATIVE AND SMALL EM-**
13 **PLOYER CHARITY PENSION PLANS.**

14 Section 210 of the Employee Retirement Income Se-
15 curity Act of 1974 (29 U.S.C. 1060) is amended by adding
16 at the end the following new subsection:

17 “(f) COOPERATIVE AND SMALL EMPLOYER CHARITY
18 PENSION PLANS.—

19 “(1) IN GENERAL.—For purposes of this title,
20 except as provided in this subsection, a CSEC plan
21 is an employee pension benefit plan (other than a
22 multiemployer plan) that is a defined benefit plan—

23 “(A) to which section 104 of the Pension
24 Protection Act of 2006 applies, without regard
25 to—

1 “(i) section 104(a)(2) of such Act;

2 “(ii) the amendments to such section
3 104 by section 202(b) of the Preservation
4 of Access to Care for Medicare Bene-
5 ficiaries and Pension Relief Act of 2010;
6 and

7 “(iii) paragraph (3)(B); or

8 “(B) that, as of June 25, 2010, was main-
9 tained by more than one employer and all of the
10 employers were organizations described in sec-
11 tion 501(c)(3) of the Internal Revenue Code of
12 1986.

13 “(2) AGGREGATION.—All employers that are
14 treated as a single employer under subsection (b) or
15 (c) of section 414 of the Internal Revenue Code of
16 1986 shall be treated as a single employer for pur-
17 poses of determining if a plan was maintained by
18 more than one employer under paragraph (1)(B).”.

19 **SEC. 102. FUNDING RULES APPLICABLE TO COOPERATIVE**
20 **AND SMALL EMPLOYER CHARITY PENSION**
21 **PLANS.**

22 (a) IN GENERAL.—Part 3 of title I of the Employee
23 Retirement Income Security Act of 1974 (29 U.S.C. 1081
24 et seq.) is amended by adding at the end the following
25 new section:

1 **“SEC. 306. MINIMUM FUNDING STANDARDS.**

2 “(a) GENERAL RULE.—For purposes of section 302,
3 the term ‘accumulated funding deficiency’ for a CSEC
4 plan means the excess of the total charges to the funding
5 standard account for all plan years (beginning with the
6 first plan year to which section 302 applies) over the total
7 credits to such account for such years or, if less, the excess
8 of the total charges to the alternative minimum funding
9 standard account for such plan years over the total credits
10 to such account for such years.

11 “(b) FUNDING STANDARD ACCOUNT.—

12 “(1) ACCOUNT REQUIRED.—Each plan to which
13 this section applies shall establish and maintain a
14 funding standard account. Such account shall be
15 credited and charged solely as provided in this sec-
16 tion.

17 “(2) CHARGES TO ACCOUNT.—For a plan year,
18 the funding standard account shall be charged with
19 the sum of—

20 “(A) the normal cost of the plan for the
21 plan year,

22 “(B) the amounts necessary to amortize in
23 equal annual installments (until fully amor-
24 tized)—

25 “(i) in the case of a plan in existence
26 on January 1, 1974, the unfunded past

1 service liability under the plan on the first
2 day of the first plan year to which section
3 302 applies, over a period of 40 plan years,

4 “(ii) in the case of a plan which comes
5 into existence after January 1, 1974, but
6 before the first day of the first plan year
7 beginning after December 31, 2013, the
8 unfunded past service liability under the
9 plan on the first day of the first plan year
10 to which section 302 applies, over a period
11 of 30 plan years,

12 “(iii) separately, with respect to each
13 plan year, the net increase (if any) in un-
14 funded past service liability under the plan
15 arising from plan amendments adopted in
16 such year, over a period of 15 plan years,

17 “(iv) separately, with respect to each
18 plan year, the net experience loss (if any)
19 under the plan, over a period of 5 plan
20 years, and

21 “(v) separately, with respect to each
22 plan year, the net loss (if any) resulting
23 from changes in actuarial assumptions
24 used under the plan, over a period of 10
25 plan years,

1 “(C) the amount necessary to amortize
2 each waived funding deficiency (within the
3 meaning of section 302(c)(3)) for each prior
4 plan year in equal annual installments (until
5 fully amortized) over a period of 5 plan years,

6 “(D) the amount necessary to amortize in
7 equal annual installments (until fully amor-
8 tized) over a period of 5 plan years any amount
9 credited to the funding standard account under
10 paragraph (3)(D), and

11 “(E) the amount necessary to amortize in
12 equal annual installments (until fully amor-
13 tized) over a period of 20 years the contribu-
14 tions which would be required to be made under
15 the plan but for the provisions of section
16 302(c)(7)(A)(i)(I) (as in effect on the day be-
17 fore the enactment of the Pension Protection
18 Act of 2006).

19 “(3) CREDITS TO ACCOUNT.—For a plan year,
20 the funding standard account shall be credited with
21 the sum of—

22 “(A) the amount considered contributed by
23 the employer to or under the plan for the plan
24 year,

1 “(B) the amount necessary to amortize in
2 equal annual installments (until fully amor-
3 tized)—

4 “(i) separately, with respect to each
5 plan year, the net decrease (if any) in un-
6 funded past service liability under the plan
7 arising from plan amendments adopted in
8 such year, over a period of 15 plan years,

9 “(ii) separately, with respect to each
10 plan year, the net experience gain (if any)
11 under the plan, over a period of 5 plan
12 years, and

13 “(iii) separately, with respect to each
14 plan year, the net gain (if any) resulting
15 from changes in actuarial assumptions
16 used under the plan, over a period of 10
17 plan years,

18 “(C) the amount of the waived funding de-
19 ficiency (within the meaning of section
20 302(c)(3)) for the plan year, and

21 “(D) in the case of a plan year for which
22 the accumulated funding deficiency is deter-
23 mined under the funding standard account if
24 such plan year follows a plan year for which
25 such deficiency was determined under the alter-

1 native minimum funding standard, the excess
2 (if any) of any debit balance in the funding
3 standard account (determined without regard to
4 this subparagraph) over any debit balance in
5 the alternative minimum funding standard ac-
6 count.

7 “(4) COMBINING AND OFFSETTING AMOUNTS
8 TO BE AMORTIZED.—Under regulations prescribed
9 by the Secretary of the Treasury, amounts required
10 to be amortized under paragraph (2) or paragraph
11 (3), as the case may be—

12 “(A) may be combined into one amount
13 under such paragraph to be amortized over a
14 period determined on the basis of the remaining
15 amortization period for all items entering into
16 such combined amount, and

17 “(B) may be offset against amounts re-
18 quired to be amortized under the other such
19 paragraph, with the resulting amount to be am-
20 ortized over a period determined on the basis of
21 the remaining amortization periods for all items
22 entering into whichever of the two amounts
23 being offset is the greater.

24 “(5) INTEREST.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), the funding standard ac-
3 count (and items therein) shall be charged or
4 credited (as determined under regulations pre-
5 scribed by the Secretary of the Treasury) with
6 interest at the appropriate rate consistent with
7 the rate or rates of interest used under the plan
8 to determine costs.

9 “(B) EXCEPTION.—The interest rate used
10 for purposes of computing the amortization
11 charge described in subsection (b)(2)(C) or for
12 purposes of any arrangement under subsection
13 (d) for any plan year shall be the greater of—

14 “(i) 150 percent of the Federal mid-
15 term rate (as in effect under section 1274
16 of the Internal Revenue Code of 1986 for
17 the 1st month of such plan year), or

18 “(ii) the rate of interest determined
19 under subparagraph (A).

20 “(6) AMORTIZATION SCHEDULES IN EFFECT.—
21 Amortization schedules for amounts described in
22 paragraphs (2) and (3) that are in effect as of the
23 last day of the last plan year beginning before Janu-
24 ary 1, 2014, by reason of section 104 of the Pension
25 Protection Act of 2006 shall remain in effect pursu-

1 ant to their terms and this section, except that such
2 amounts shall not be amortized again under this sec-
3 tion.

4 “(c) SPECIAL RULES.—

5 “(1) DETERMINATIONS TO BE MADE UNDER
6 FUNDING METHOD.—For purposes of this section,
7 normal costs, accrued liability, past service liabilities,
8 and experience gains and losses shall be determined
9 under the funding method used to determine costs
10 under the plan.

11 “(2) VALUATION OF ASSETS.—

12 “(A) IN GENERAL.—For purposes of this
13 section, the value of the plan’s assets shall be
14 determined on the basis of any reasonable actu-
15 arial method of valuation which takes into ac-
16 count fair market value and which is permitted
17 under regulations prescribed by the Secretary of
18 the Treasury.

19 “(B) DEDICATED BOND PORTFOLIO.—The
20 Secretary of the Treasury may by regulations
21 provide that the value of any dedicated bond
22 portfolio of a plan shall be determined by using
23 the interest rate under section 302(b)(5) (as in
24 effect on the day before the enactment of the
25 Pension Protection Act of 2006).

1 “(3) ACTUARIAL ASSUMPTIONS MUST BE REA-
2 SONABLE.—For purposes of this section, all costs, li-
3 abilities, rates of interest, and other factors under
4 the plan shall be determined on the basis of actu-
5 arial assumptions and methods—

6 “(A) each of which is reasonable (taking
7 into account the experience of the plan and rea-
8 sonable expectations), and

9 “(B) which, in combination, offer the actu-
10 ary’s best estimate of anticipated experience
11 under the plan.

12 “(4) TREATMENT OF CERTAIN CHANGES AS EX-
13 PERIENCE GAIN OR LOSS.—For purposes of this sec-
14 tion, if—

15 “(A) a change in benefits under the Social
16 Security Act or in other retirement benefits cre-
17 ated under Federal or State law, or

18 “(B) a change in the definition of the term
19 ‘wages’ under section 3121 of the Internal Rev-
20 enue Code of 1986 or a change in the amount
21 of such wages taken into account under regula-
22 tions prescribed for purposes of section
23 401(a)(5) of such Code,

1 results in an increase or decrease in accrued liability
2 under a plan, such increase or decrease shall be
3 treated as an experience loss or gain.

4 “(5) FUNDING METHOD AND PLAN YEAR.—

5 “(A) FUNDING METHODS AVAILABLE.—All
6 funding methods available to CSEC plans under
7 section 302 (as in effect on the day before the
8 enactment of the Pension Protection Act of
9 2006) shall continue to be available under this
10 section.

11 “(B) CHANGES.—If the funding method
12 for a plan is changed, the new funding method
13 shall become the funding method used to deter-
14 mine costs and liabilities under the plan only if
15 the change is approved by the Secretary of the
16 Treasury. If the plan year for a plan is
17 changed, the new plan year shall become the
18 plan year for the plan only if the change is ap-
19 proved by the Secretary of the Treasury.

20 “(C) APPROVAL REQUIRED FOR CERTAIN
21 CHANGES IN ASSUMPTIONS BY CERTAIN SIN-
22 GLE-EMPLOYER PLANS SUBJECT TO ADDI-
23 TIONAL FUNDING REQUIREMENT.—

24 “(i) IN GENERAL.—No actuarial as-
25 sumption (other than the assumptions de-

1 scribed in subsection (h)(3)) used to deter-
2 mine the current liability for a plan to
3 which this subparagraph applies may be
4 changed without the approval of the Sec-
5 retary of the Treasury.

6 “(ii) PLANS TO WHICH SUBPARA-
7 GRAPH APPLIES.—This subparagraph shall
8 apply to a plan only if—

9 “(I) the plan is a CSEC plan,

10 “(II) the aggregate unfunded
11 vested benefits as of the close of the
12 preceding plan year (as determined
13 under section 4006(a)(3)(E)(iii)) of
14 such plan and all other plans main-
15 tained by the contributing sponsors
16 (as defined in section 4001(a)(13))
17 and members of such sponsors’ con-
18 trolled groups (as defined in section
19 4001(a)(14)) which are covered by
20 title IV (disregarding plans with no
21 unfunded vested benefits) exceed
22 \$50,000,000, and

23 “(III) the change in assumptions
24 (determined after taking into account
25 any changes in interest rate and mor-

1 tality table) results in a decrease in
2 the funding shortfall of the plan for
3 the current plan year that exceeds
4 \$50,000,000, or that exceeds
5 \$5,000,000 and that is 5 percent or
6 more of the current liability of the
7 plan before such change.

8 “(6) FULL FUNDING.—If, as of the close of a
9 plan year, a plan would (without regard to this para-
10 graph) have an accumulated funding deficiency (de-
11 termined without regard to the alternative minimum
12 funding standard account permitted under sub-
13 section (e)) in excess of the full funding limitation—

14 “(A) the funding standard account shall be
15 credited with the amount of such excess, and

16 “(B) all amounts described in paragraphs
17 (2)(B), (C), and (D) and (3)(B) of subsection
18 (b) which are required to be amortized shall be
19 considered fully amortized for purposes of such
20 paragraphs.

21 “(7) FULL-FUNDING LIMITATION.—For pur-
22 poses of paragraph (6), the term ‘full-funding limita-
23 tion’ means the excess (if any) of—

24 “(A) the accrued liability (including nor-
25 mal cost) under the plan (determined under the

1 entry age normal funding method if such ac-
2 crued liability cannot be directly calculated
3 under the funding method used for the plan),
4 over

5 “(B) the lesser of—

6 “(i) the fair market value of the
7 plan’s assets, or

8 “(ii) the value of such assets deter-
9 mined under paragraph (2).

10 “(C) MINIMUM AMOUNT.—

11 “(i) IN GENERAL.—In no event shall
12 the full-funding limitation determined
13 under subparagraph (A) be less than the
14 excess (if any) of—

15 “(I) 90 percent of the current li-
16 ability (determined without regard to
17 paragraph (4) of subsection (h)) of
18 the plan (including the expected in-
19 crease in such current liability due to
20 benefits accruing during the plan
21 year), over

22 “(II) the value of the plan’s as-
23 sets determined under paragraph (2).

24 “(ii) ASSETS.—For purposes of clause
25 (i), assets shall not be reduced by any

1 credit balance in the funding standard ac-
2 count.

3 “(8) ANNUAL VALUATION.—

4 “(A) IN GENERAL.—For purposes of this
5 section, a determination of experience gains and
6 losses and a valuation of the plan’s liability
7 shall be made not less frequently than once
8 every year, except that such determination shall
9 be made more frequently to the extent required
10 in particular cases under regulations prescribed
11 by the Secretary of the Treasury.

12 “(B) VALUATION DATE.—

13 “(i) CURRENT YEAR.—Except as pro-
14 vided in clause (ii), the valuation referred
15 to in subparagraph (A) shall be made as of
16 a date within the plan year to which the
17 valuation refers or within one month prior
18 to the beginning of such year.

19 “(ii) USE OF PRIOR YEAR VALU-
20 ATION.—The valuation referred to in sub-
21 paragraph (A) may be made as of a date
22 within the plan year prior to the year to
23 which the valuation refers if, as of such
24 date, the value of the assets of the plan are

1 not less than 100 percent of the plan's cur-
2 rent liability.

3 “(iii) ADJUSTMENTS.—Information
4 under clause (ii) shall, in accordance with
5 regulations, be actuarially adjusted to re-
6 flect significant differences in participants.

7 “(iv) LIMITATION.—A change in fund-
8 ing method to use a prior year valuation,
9 as provided in clause (ii), may not be made
10 unless as of the valuation date within the
11 prior plan year, the value of the assets of
12 the plan are not less than 125 percent of
13 the plan's current liability.

14 “(9) TIME WHEN CERTAIN CONTRIBUTIONS
15 DEEMED MADE.—For purposes of this section, any
16 contributions for a plan year made by an employer
17 during the period—

18 “(A) beginning on the day after the last
19 day of such plan year, and

20 “(B) ending on the day which is 8½
21 months after the close of the plan year,

22 shall be deemed to have been made on such last day.

23 “(10) ANTICIPATION OF BENEFIT INCREASES
24 EFFECTIVE IN THE FUTURE.—In determining pro-
25 jected benefits, the funding method of a collectively

1 bargained CSEC plan described in section 413(a) of
2 the Internal Revenue Code of 1986 shall anticipate
3 benefit increases scheduled to take effect during the
4 term of the collective bargaining agreement applica-
5 ble to the plan.

6 “(d) EXTENSION OF AMORTIZATION PERIODS.—The
7 period of years required to amortize any unfunded liability
8 (described in any clause of subsection (b)(2)(B)) of any
9 plan may be extended by the Secretary of the Treasury
10 for a period of time (not in excess of 10 years) if such
11 Secretary determines that such extension would carry out
12 the purposes of this Act and provide adequate protection
13 for participants under the plan and their beneficiaries, and
14 if such Secretary determines that the failure to permit
15 such extension would result in—

16 “(1) a substantial risk to the voluntary continu-
17 ation of the plan, or

18 “(2) a substantial curtailment of pension ben-
19 efit levels or employee compensation.

20 “(e) ALTERNATIVE MINIMUM FUNDING STAND-
21 ARD.—

22 “(1) IN GENERAL.—A CSEC plan which uses a
23 funding method that requires contributions in all
24 years not less than those required under the entry
25 age normal funding method may maintain an alter-

1 native minimum funding standard account for any
2 plan year. Such account shall be credited and
3 charged solely as provided in this subsection.

4 “(2) CHARGES AND CREDITS TO ACCOUNT.—

5 For a plan year the alternative minimum funding
6 standard account shall be—

7 “(A) charged with the sum of—

8 “(i) the lesser of normal cost under
9 the funding method used under the plan or
10 normal cost determined under the unit
11 credit method,

12 “(ii) the excess, if any, of the present
13 value of accrued benefits under the plan
14 over the fair market value of the assets,
15 and

16 “(iii) an amount equal to the excess
17 (if any) of credits to the alternative min-
18 imum standard account for all prior plan
19 years over charges to such account for all
20 such years, and

21 “(B) credited with the amount considered
22 contributed by the employer to or under the
23 plan for the plan year.

24 “(3) INTEREST.—The alternative minimum
25 funding standard account (and items therein) shall

1 be charged or credited with interest in the manner
2 provided under subsection (b)(5) with respect to the
3 funding standard account.

4 “(f) QUARTERLY CONTRIBUTIONS REQUIRED.—

5 “(1) IN GENERAL.—If a CSEC plan which has
6 a funded current liability percentage for the pre-
7 ceding plan year of less than 100 percent fails to
8 pay the full amount of a required installment for the
9 plan year, then the rate of interest charged to the
10 funding standard account under subsection (b)(5)
11 with respect to the amount of the underpayment for
12 the period of the underpayment shall be equal to the
13 greater of—

14 “(A) 175 percent of the Federal mid-term
15 rate (as in effect under section 1274 of the In-
16 ternal Revenue Code of 1986 for the 1st month
17 of such plan year), or

18 “(B) the rate of interest used under the
19 plan in determining costs.

20 “(2) AMOUNT OF UNDERPAYMENT, PERIOD OF
21 UNDERPAYMENT.—For purposes of paragraph (1)—

22 “(A) AMOUNT.—The amount of the under-
23 payment shall be the excess of—

24 “(i) the required installment, over

1 “(ii) the amount (if any) of the in-
2 stallment contributed to or under the plan
3 on or before the due date for the install-
4 ment.

5 “(B) PERIOD OF UNDERPAYMENT.—The
6 period for which interest is charged under this
7 subsection with regard to any portion of the un-
8 derpayment shall run from the due date for the
9 installment to the date on which such portion is
10 contributed to or under the plan (determined
11 without regard to subsection (c)(9)).

12 “(C) ORDER OF CREDITING CONTRIBU-
13 TIONS.—For purposes of subparagraph (A)(ii),
14 contributions shall be credited against unpaid
15 required installments in the order in which such
16 installments are required to be paid.

17 “(3) NUMBER OF REQUIRED INSTALLMENTS;
18 DUE DATES.—For purposes of this subsection—

19 “(A) PAYABLE IN 4 INSTALLMENTS.—
20 There shall be 4 required installments for each
21 plan year.

22 “(B) TIME FOR PAYMENT OF INSTALL-
23 MENTS.—

**“In the case of the following
required installments:**

The due date is:

1st

April 15

**“In the case of the following
required installments:**

The due date is:

2nd	July 15
3rd	October 15
4th	January 15 of the following year.

1 “(4) AMOUNT OF REQUIRED INSTALLMENT.—

2 For purposes of this subsection—

3 “(A) IN GENERAL.—The amount of any
4 required installment shall be 25 percent of the
5 required annual payment.

6 “(B) REQUIRED ANNUAL PAYMENT.—For
7 purposes of subparagraph (A), the term ‘re-
8 quired annual payment’ means the lesser of—

9 “(i) 90 percent of the amount re-
10 quired to be contributed to or under the
11 plan by the employer for the plan year
12 under section 302 (without regard to any
13 waiver under subsection (c) thereof), or

14 “(ii) 100 percent of the amount so re-
15 quired for the preceding plan year.

16 Clause (ii) shall not apply if the preceding plan
17 year was not a year of 12 months.

18 “(5) LIQUIDITY REQUIREMENT.—

19 “(A) IN GENERAL.—A plan to which this
20 paragraph applies shall be treated as failing to
21 pay the full amount of any required installment
22 to the extent that the value of the liquid assets

1 paid in such installment is less than the liquid-
2 ity shortfall (whether or not such liquidity
3 shortfall exceeds the amount of such install-
4 ment required to be paid but for this para-
5 graph).

6 “(B) PLANS TO WHICH PARAGRAPH AP-
7 PLIES.—This paragraph shall apply to a CSEC
8 plan other than a plan described in section
9 302(d)(6)(A) (as in effect on the day before the
10 enactment of the Pension Protection Act of
11 2006) which—

12 “(i) is required to pay installments
13 under this subsection for a plan year, and

14 “(ii) has a liquidity shortfall for any
15 quarter during such plan year.

16 “(C) PERIOD OF UNDERPAYMENT.—For
17 purposes of paragraph (1), any portion of an
18 installment that is treated as not paid under
19 subparagraph (A) shall continue to be treated
20 as unpaid until the close of the quarter in
21 which the due date for such installment occurs.

22 “(D) LIMITATION ON INCREASE.—If the
23 amount of any required installment is increased
24 by reason of subparagraph (A), in no event
25 shall such increase exceed the amount which,

1 when added to prior installments for the plan
2 year, is necessary to increase the funded cur-
3 rent liability percentage (taking into account
4 the expected increase in current liability due to
5 benefits accruing during the plan year) to 100
6 percent.

7 “(E) DEFINITIONS.—For purposes of this
8 paragraph—

9 “(i) LIQUIDITY SHORTFALL.—The
10 term ‘liquidity shortfall’ means, with re-
11 spect to any required installment, an
12 amount equal to the excess (as of the last
13 day of the quarter for which such install-
14 ment is made) of the base amount with re-
15 spect to such quarter over the value (as of
16 such last day) of the plan’s liquid assets.

17 “(ii) BASE AMOUNT.—

18 “(I) IN GENERAL.—The term
19 ‘base amount’ means, with respect to
20 any quarter, an amount equal to 3
21 times the sum of the adjusted dis-
22 bursements from the plan for the 12
23 months ending on the last day of such
24 quarter.

1 “(II) SPECIAL RULE.—If the
2 amount determined under subclause
3 (I) exceeds an amount equal to 2
4 times the sum of the adjusted dis-
5 bursements from the plan for the 36
6 months ending on the last day of the
7 quarter and an enrolled actuary cer-
8 tifies to the satisfaction of the Sec-
9 retary of the Treasury that such ex-
10 cess is the result of nonrecurring cir-
11 cumstances, the base amount with re-
12 spect to such quarter shall be deter-
13 mined without regard to amounts re-
14 lated to those nonrecurring cir-
15 cumstances.

16 “(iii) DISBURSEMENTS FROM THE
17 PLAN.—The term ‘disbursements from the
18 plan’ means all disbursements from the
19 trust, including purchases of annuities,
20 payments of single sums and other bene-
21 fits, and administrative expenses.

22 “(iv) ADJUSTED DISBURSEMENTS.—
23 The term ‘adjusted disbursements’ means
24 disbursements from the plan reduced by
25 the product of—

1 “(I) the plan’s funded current li-
2 ability percentage for the plan year,
3 and

4 “(II) the sum of the purchases of
5 annuities, payments of single sums,
6 and such other disbursements as the
7 Secretary of the Treasury shall pro-
8 vide in regulations.

9 “(v) LIQUID ASSETS.—The term ‘liq-
10 uid assets’ means cash, marketable securi-
11 ties and such other assets as specified by
12 the Secretary of the Treasury in regula-
13 tions.

14 “(vi) QUARTER.—The term ‘quarter’
15 means, with respect to any required install-
16 ment, the 3-month period preceding the
17 month in which the due date for such in-
18 stallment occurs.

19 “(F) REGULATIONS.—The Secretary of the
20 Treasury may prescribe such regulations as are
21 necessary to carry out this paragraph.

22 “(6) FISCAL YEARS AND SHORT YEARS.—

23 “(A) FISCAL YEARS.—In applying this
24 subsection to a plan year beginning on any date
25 other than January 1, there shall be substituted

1 for the months specified in this subsection, the
2 months which correspond thereto.

3 “(B) SHORT PLAN YEAR.—This subsection
4 shall be applied to plan years of less than 12
5 months in accordance with regulations pre-
6 scribed by the Secretary of the Treasury.

7 “(g) IMPOSITION OF LIEN WHERE FAILURE TO
8 MAKE REQUIRED CONTRIBUTIONS.—

9 “(1) IN GENERAL.—In the case of a plan to
10 which this section applies, if—

11 “(A) any person fails to make a required
12 installment under subsection (f) or any other
13 payment required under this section before the
14 due date for such installment or other payment,
15 and

16 “(B) the unpaid balance of such install-
17 ment or other payment (including interest),
18 when added to the aggregate unpaid balance of
19 all preceding such installments or other pay-
20 ments for which payment was not made before
21 the due date (including interest), exceeds
22 \$1,000,000,

23 then there shall be a lien in favor of the plan in the
24 amount determined under paragraph (3) upon all
25 property and rights to property, whether real or per-

1 sonal, belonging to such person and any other per-
2 son who is a member of the same controlled group
3 of which such person is a member.

4 “(2) PLANS TO WHICH SUBSECTION APPLIES.—

5 This subsection shall apply to a CSEC plan for any
6 plan year for which the funded current liability per-
7 centage of such plan is less than 100 percent. This
8 subsection shall not apply to any plan to which sec-
9 tion 4021 does not apply (as such section is in effect
10 on the date of the enactment of the Retirement Pro-
11 tection Act of 1994).

12 “(3) AMOUNT OF LIEN.—For purposes of para-

13 graph (1), the amount of the lien shall be equal to
14 the aggregate unpaid balance of required install-
15 ments and other payments required under this sec-
16 tion (including interest)—

17 “(A) for plan years beginning after 1987,

18 and

19 “(B) for which payment has not been
20 made before the due date.

21 “(4) NOTICE OF FAILURE; LIEN.—

22 “(A) NOTICE OF FAILURE.—A person
23 committing a failure described in paragraph (1)
24 shall notify the Pension Benefit Guaranty Cor-
25 poration of such failure within 10 days of the

1 due date for the required installment or other
2 payment.

3 “(B) PERIOD OF LIEN.—The lien imposed
4 by paragraph (1) shall arise on the due date for
5 the required installment or other payment and
6 shall continue until the last day of the first plan
7 year in which the plan ceases to be described in
8 paragraph (1)(B). Such lien shall continue to
9 run without regard to whether such plan con-
10 tinues to be described in paragraph (2) during
11 the period referred to in the preceding sentence.

12 “(C) CERTAIN RULES TO APPLY.—Any
13 amount with respect to which a lien is imposed
14 under paragraph (1) shall be treated as taxes
15 due and owing the United States and rules
16 similar to the rules of subsections (c), (d), and
17 (e) of section 4068 shall apply with respect to
18 a lien imposed by subsection (a) and the
19 amount with respect to such lien.

20 “(5) ENFORCEMENT.—Any lien created under
21 paragraph (1) may be perfected and enforced only
22 by the Pension Benefit Guaranty Corporation, or at
23 the direction of the Pension Benefit Guaranty Cor-
24 poration, by any contributing employer (or any

1 member of the controlled group of the contributing
2 employer).

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

5 “(A) DUE DATE; REQUIRED INSTALL-
6 MENT.—The terms ‘due date’ and ‘required in-
7 stallment’ have the meanings given such terms
8 by subsection (f), except that in the case of a
9 payment other than a required installment, the
10 due date shall be the date such payment is re-
11 quired to be made under this section.

12 “(B) CONTROLLED GROUP.—The term
13 ‘controlled group’ means any group treated as
14 a single employer under subsections (b), (c),
15 (m), and (o) of section 414 of the Internal Rev-
16 enue Code of 1986.

17 “(h) CURRENT LIABILITY.—For purposes of this sec-
18 tion—

19 “(1) IN GENERAL.—The term ‘current liability’
20 means all liabilities to employees and their bene-
21 ficiaries under the plan.

22 “(2) TREATMENT OF UNPREDICTABLE CONTIN-
23 GENT EVENT BENEFITS.—

24 “(A) IN GENERAL.—For purposes of para-
25 graph (1), any unpredictable contingent event

1 benefit shall not be taken into account until the
2 event on which the benefit is contingent occurs.

3 “(B) UNPREDICTABLE CONTINGENT
4 EVENT BENEFIT.—The term ‘unpredictable
5 contingent event benefit’ means any benefit
6 contingent on an event other than—

7 “(i) age, service, compensation, death,
8 or disability, or

9 “(ii) an event which is reasonably and
10 reliably predictable (as determined by the
11 Secretary of the Treasury).

12 “(3) INTEREST RATE AND MORTALITY ASSUMP-
13 TIONS USED.—

14 “(A) INTEREST RATE.—The rate of inter-
15 est used to determine current liability under
16 this section shall be the third segment rate de-
17 termined under section 303(h)(2)(C).

18 “(B) MORTALITY TABLES.—

19 “(i) SECRETARIAL AUTHORITY.—The
20 Secretary of the Treasury may by regula-
21 tion prescribe mortality tables to be used
22 in determining current liability under this
23 subsection. Such tables shall be based upon
24 the actual experience of pension plans and
25 projected trends in such experience. In pre-

1 scribing such tables, the Secretary of the
2 Treasury shall take into account results of
3 available independent studies of mortality
4 of individuals covered by pension plans.

5 “(ii) PERIODIC REVIEW.—The Sec-
6 retary of the Treasury shall periodically (at
7 least every 5 years) review any tables in ef-
8 fect under this subsection and shall, to the
9 extent the Secretary of the Treasury deter-
10 mines necessary, by regulation update the
11 tables to reflect the actual experience of
12 pension plans and projected trends in such
13 experience.

14 “(C) SEPARATE MORTALITY TABLES FOR
15 THE DISABLED.—Notwithstanding subpara-
16 graph (B)—

17 “(i) IN GENERAL.—In the case of
18 plan years beginning after December 31,
19 1995, the Secretary of the Treasury shall
20 establish mortality tables which may be
21 used (in lieu of the tables under subpara-
22 graph (B)) to determine current liability
23 under this subsection for individuals who
24 are entitled to benefits under the plan on
25 account of disability. The Secretary of the

1 Treasury shall establish separate tables for
2 individuals whose disabilities occur in plan
3 years beginning before January 1, 1995,
4 and for individuals whose disabilities occur
5 in plan years beginning on or after such
6 date.

7 “(ii) SPECIAL RULE FOR DISABILITIES
8 OCCURRING AFTER 1994.—In the case of
9 disabilities occurring in plan years begin-
10 ning after December 31, 1994, the tables
11 under clause (i) shall apply only with re-
12 spect to individuals described in such sub-
13 clause who are disabled within the meaning
14 of title II of the Social Security Act and
15 the regulations thereunder.

16 “(4) CERTAIN SERVICE DISREGARDED.—

17 “(A) IN GENERAL.—In the case of a par-
18 ticipant to whom this paragraph applies, only
19 the applicable percentage of the years of service
20 before such individual became a participant
21 shall be taken into account in computing the
22 current liability of the plan.

23 “(B) APPLICABLE PERCENTAGE.—For
24 purposes of this subparagraph, the applicable
25 percentage shall be determined as follows:

“If the years of participation are:	The applicable percentage is:
1	20
2	40
3	60
4	80
5 or more	100.

1 “(C) PARTICIPANTS TO WHOM PARAGRAPH
 2 APPLIES.—This subparagraph shall apply to
 3 any participant who, at the time of becoming a
 4 participant—

5 “(i) has not accrued any other benefit
 6 under any defined benefit plan (whether or
 7 not terminated) maintained by the em-
 8 ployer or a member of the same controlled
 9 group of which the employer is a member,

10 “(ii) who first becomes a participant
 11 under the plan in a plan year beginning
 12 after December 31, 1987, and

13 “(iii) has years of service greater than
 14 the minimum years of service necessary for
 15 eligibility to participate in the plan.

16 “(D) ELECTION.—An employer may elect
 17 not to have this subparagraph apply. Such an
 18 election, once made, may be revoked only with
 19 the consent of the Secretary of the Treasury.

20 “(i) FUNDED CURRENT LIABILITY PERCENTAGE.—
 21 For purposes of this section, the term ‘funded current li-

1 ability percentage’ means, with respect to any plan year,
2 the percentage which—

3 “(1) the value of the plan’s assets determined
4 under subsection (c)(2), is of

5 “(2) the current liability under the plan.

6 “(j) FUNDING RESTORATION STATUS.—Notwith-
7 standing any other provisions of this section—

8 “(1) NORMAL COST PAYMENT.—

9 “(A) IN GENERAL.—In the case of a
10 CSEC plan that is in funding restoration status
11 for a plan year, for purposes of section 302, the
12 term ‘accumulated funding deficiency’ means,
13 for such plan year, the greater of—

14 “(i) the amount described in sub-
15 section (a), or

16 “(ii) the excess of the normal cost of
17 the plan for the plan year over the amount
18 actually contributed to or under the plan
19 for the plan year.

20 “(B) NORMAL COST.—In the case of a
21 CSEC plan that uses a spread gain funding
22 method, for purposes of this subsection, the
23 term ‘normal cost’ means normal cost as deter-
24 mined under the entry age normal funding
25 method.

1 “(2) PLAN AMENDMENTS.—In the case of a
2 CSEC plan that is in funding restoration status for
3 a plan year, no amendment to such plan may take
4 effect during such plan year if such amendment has
5 the effect of increasing liabilities of the plan by
6 means of increases in benefits, establishment of new
7 benefits, changing the rate of benefit accrual, or
8 changing the rate at which benefits become non-
9 forfeitable. This paragraph shall not apply to any
10 plan amendment that is required to comply with any
11 applicable law. This paragraph shall cease to apply
12 with respect to any plan year, effective as of the
13 first day of the plan year (or if later, the effective
14 date of the amendment) upon payment by the plan
15 sponsor of a contribution to the plan (in addition to
16 any contribution required under this section without
17 regard to this paragraph) in an amount equal to the
18 increase in the funding liability of the plan attrib-
19 utable to the plan amendment.

20 “(3) FUNDING RESTORATION PLAN.—The spon-
21 sor of a CSEC plan shall establish a written funding
22 restoration plan within 180 days of the receipt by
23 the plan sponsor of a certification from the plan ac-
24 tuary that the plan is in funding restoration status
25 for a plan year. Such funding restoration plan shall

1 consist of actions that are calculated, based on rea-
2 sonably anticipated experience and reasonable actu-
3 arial assumptions, to increase the plan’s funded per-
4 centage to 100 percent over a period that is not
5 longer than the greater of 7 years or the shortest
6 amount of time practicable. Such funding restora-
7 tion plan shall take into account contributions re-
8 quired under this section (without regard to this
9 paragraph). If a plan remains in funding restoration
10 status for 2 or more years, such funding restoration
11 plan shall be updated each year after the 1st such
12 year within 180 days of receipt by the plan sponsor
13 of a certification from the plan actuary that the plan
14 remains in funding restoration status for the plan
15 year.

16 “(4) ANNUAL CERTIFICATION BY PLAN ACTU-
17 ARY.—Not later than the 90th day of each plan year
18 of a CSEC plan, the plan actuary shall certify to the
19 plan sponsor whether or not the plan is in funding
20 restoration status for the plan year, based on the
21 plan’s funded percentage as of the beginning of the
22 plan year. For this purpose, the actuary may conclu-
23 sively rely on an estimate of—

24 “(A) the plan’s funding liability, based on
25 the funding liability of the plan for the pre-

1 ceding plan year and on reasonable actuarial es-
2 timates, assumptions, and methods, and

3 “(B) the amount of any contributions rea-
4 sonably anticipated to be made for the pre-
5 ceding plan year.

6 Contributions described in subparagraph (B) shall
7 be taken into account in determining the plan’s
8 funded percentage as of the beginning of the plan
9 year.

10 “(5) DEFINITIONS.—For purposes of this sub-
11 section—

12 “(A) FUNDING RESTORATION STATUS.—A
13 CSEC plan shall be treated as in funding res-
14 toration status for a plan year if the plan’s
15 funded percentage as of the beginning of such
16 plan year is less than 80 percent.

17 “(B) FUNDED PERCENTAGE.—The term
18 ‘funded percentage’ means the ratio (expressed
19 as a percentage) which—

20 “(i) the value of plan assets (as deter-
21 mined under subsection (c)(2)), bears to

22 “(ii) the plan’s funding liability.

23 “(C) FUNDING LIABILITY.—The term
24 ‘funding liability’ for a plan year means the
25 present value of all benefits accrued or earned

1 under the plan as of the beginning of the plan
2 year, based on the assumptions used by the
3 plan pursuant to this section, including the in-
4 terest rate described in subsection (b)(5)(A)
5 (without regard to subsection (b)(5)(B)).

6 “(D) SPREAD GAIN FUNDING METHOD.—

7 The term ‘spread gain funding method’ has the
8 meaning given such term under rules and forms
9 issued by the Secretary of the Treasury.”.

10 (b) SEPARATE RULES FOR CSEC PLANS.—

11 (1) IN GENERAL.—Paragraph (2) of section
12 302(a) of the Employee Retirement Income Security
13 Act of 1974 (29 U.S.C. 1082(a)) is amended by
14 striking “and” at the end of subparagraph (B), by
15 striking the period at the end of subparagraph (C)
16 and inserting “, and”, and by inserting at the end
17 thereof the following new subparagraph:

18 “(D) in the case of a CSEC plan, the em-
19 ployers make contributions to or under the plan
20 for any plan year which, in the aggregate, are
21 sufficient to ensure that the plan does not have
22 an accumulated funding deficiency under sec-
23 tion 306 as of the end of the plan year.”.

1 (2) CONFORMING AMENDMENTS.—Section 302
2 of the Employee Retirement Income Security Act of
3 1974 (29 U.S.C. 1082) is amended—

4 (A) by striking “multiemployer plan” the
5 first place it appears in clause (i) of subsection
6 (c)(1)(A) and the last place it appears in para-
7 graph (2) of subsection (d), and inserting “mul-
8 tiemployer plan or a CSEC plan”,

9 (B) by striking “303(j)” in paragraph (1)
10 of subsection (b) and inserting “303(j) or under
11 section 306(f)”,

12 (C)(i) by striking “and” at the end of
13 clause (i) of subsection (c)(1)(B),

14 (ii) by striking the period at the end of
15 clause (ii) of subsection (c)(1)(B), and inserting
16 “, and”, and

17 (iii) by inserting the following new clause
18 after clause (ii) of subsection (c)(1)(B):

19 “(iii) in the case of a CSEC plan, the
20 funding standard account shall be credited
21 under section 306(b)(3)(C) with the
22 amount of the waived funding deficiency
23 and such amount shall be amortized as re-
24 quired under section 306(b)(2)(C).”,

1 (D) by striking “under paragraph (1)” in
2 clause (i) of subsection (c)(4)(A) and inserting
3 “under paragraph (1) or for granting an exten-
4 sion under section 306(d)”,

5 (E) by striking “waiver under this sub-
6 section” in subparagraph (B) of subsection
7 (c)(4) and inserting “waiver under this sub-
8 section or an extension under 306(d)”,

9 (F) by striking “waiver or modification” in
10 subclause (I) of subsection (c)(4)(B)(i) and in-
11 sserting “waiver, modification, or extension”,

12 (G) by striking “waivers” in the heading of
13 subsection (c)(4)(C) and of clause (ii) of sub-
14 section (c)(4)(C) and inserting “waivers or ex-
15 tensions”,

16 (H) by striking “section 304(d)” in sub-
17 paragraph (A) of subsection (e)(7) and in para-
18 graph (2) of subsection (d) and inserting “sec-
19 tion 304(d) or section 306(d)”,

20 (I) by striking “and” at the end of sub-
21 clause (I) of subsection (c)(4)(C)(i) and adding
22 “or the accumulated funding deficiency under
23 section 306, whichever is applicable”,

24 (J) by striking “303(e)(2),” in subclause
25 (II) of subsection (c)(4)(C)(i) and inserting

1 “303(e)(2) or 306(b)(2)(C), whichever is appli-
2 cable, and”,

3 (K) by adding immediately after subclause
4 (II) of subsection (c)(4)(C)(i) the following new
5 subclause:

6 “(III) the total amounts not paid
7 by reason of an extension in effect
8 under section 306(d),”,

9 (L) by striking “for waivers of” in clause
10 (ii) of subsection (c)(4)(C) and inserting “for
11 waivers or extensions with respect to”, and

12 (M) by striking “single-employer plan” in
13 subparagraph (A) of subsection (a)(2) and in
14 clause (i) of subsection (c)(1)(B) and inserting
15 “single-employer plan (other than a CSEC
16 plan)”.

17 (3) BENEFIT RESTRICTIONS.—Subsection (g) of
18 section 206 of the Employee Retirement Income Se-
19 curity Act of 1974 (29 U.S.C. 1056) is amended by
20 adding at the end thereof the following new para-
21 graph:

22 “(12) CSEC PLANS.—This subsection shall not
23 apply to a CSEC plan (as defined in section
24 210(f)).”.

1 (4) BENEFIT INCREASES.—Paragraph (3) of
2 section 204(i) of the Employee Retirement Income
3 Security Act of 1974 (29 U.S.C. 1054(i)) is amend-
4 ed by striking “multiemployer plans” and inserting
5 “multiemployer plans or CSEC plans”.

6 (5) SECTION 103.—Subparagraph (B) of section
7 103(d)(8) of the Employee Retirement Income Secu-
8 rity Act of 1974 (29 U.S.C. 1023(d)(8)) is amended
9 by striking “303(h) and 304(c)(3)” and inserting
10 “303(h), 304(c)(3), and 306(c)(3)”.

11 (6) SECTION 502.—Subsection (c) of section
12 502 of the Employee Retirement Income Security
13 Act of 1974 is amended—

14 (A) by redesignating the last paragraph as
15 paragraph (11), and

16 (B) by adding at the end the following new
17 paragraph:

18 “(12) The Secretary may assess a civil penalty
19 against any sponsor of a CSEC plan of up to \$100
20 a day from the date of the plan sponsor’s failure to
21 comply with the requirements of section 306(j)(3) to
22 establish or update a funding restoration plan.”.

23 (7) SECTION 4003.—Subparagraph (B) of sec-
24 tion 4003(e)(1) of the Employee Retirement Income
25 Security Act of 1974 (29 U.S.C. 1303(e)(1)) is

1 amended by striking “303(k)(1)(A) and (B) of this
2 Act or section 430(k)(1)(A) and (B) of the Internal
3 Revenue Code of 1986” and inserting “303(k)(1)(A)
4 and (B) or 306(g)(1)(A) and (B) of this Act or sec-
5 tion 430(k)(1)(A) and (B) or 433(g)(1)(A) and (B)
6 of the Internal Revenue Code of 1986”.

7 (8) SECTION 4010.—Paragraph (2) of section
8 4010(b) of the Employee Retirement Income Secu-
9 rity Act of 1974 (29 U.S.C. 1310(b)) is amended by
10 striking “303(k)(1)(A) and (B) of this Act or sec-
11 tion 430(k)(1)(A) and (B) of the Internal Revenue
12 Code of 1986” and inserting “303(k)(1)(A) and (B)
13 or 306(g)(1)(A) and (B) of this Act or section
14 430(k)(1)(A) and (B) or 433(g)(1)(A) and (B) of
15 the Internal Revenue Code of 1986”.

16 (9) SECTION 4071.—Section 4071 of the Em-
17 ployee Retirement Income Security Act of 1974 (29
18 U.S.C. 1371) is amended by striking “section
19 303(k)(4)” and inserting “section 303(k)(4) or
20 306(g)(4)”.

21 **SEC. 103. ELECTIONS.**

22 (a) ELECTION NOT TO BE TREATED AS A CSEC
23 PLAN.—Subsection (f) of section 210 of the Employee Re-
24 tirement Income Security Act of 1974, as added by section

1 101, is amended by adding at the end the following new
2 paragraph:

3 “(3) ELECTION.—

4 “(A) IN GENERAL.—If a plan falls within
5 the definition of a CSEC plan under this sub-
6 section (without regard to this paragraph), such
7 plan shall be a CSEC plan unless the plan
8 sponsor elects not later than the close of the
9 first plan year of the plan beginning after De-
10 cember 31, 2013, not to be treated as a CSEC
11 plan. An election under the preceding sentence
12 shall take effect for such plan year and, once
13 made, may be revoked only with the consent of
14 the Secretary of the Treasury.

15 “(B) SPECIAL RULE.—If a plan described
16 in subparagraph (A) is treated as a CSEC plan,
17 section 104 of the Pension Protection Act of
18 2006, as amended by the Preservation of Ac-
19 cess to Care for Medicare Beneficiaries and
20 Pension Relief Act of 2010, shall cease to apply
21 to such plan as of the first date as of which
22 such plan is treated as a CSEC plan.”.

23 (b) ELECTION TO CEASE TO BE TREATED AS AN
24 ELIGIBLE CHARITY PLAN.—Subsection (d) of section 104
25 of the Pension Protection Act of 2006, as added by section

1 202 of the Preservation of Access to Care for Medicare
2 Beneficiaries and Pension Relief Act of 2010, is amend-
3 ed—

4 (1) by striking “For purposes of” and inserting
5 “(1) IN GENERAL.—For purposes of”, and

6 (2) by adding at the end the following:

7 “(2) ELECTION NOT TO BE AN ELIGIBLE CHAR-
8 ITY PLAN.—A plan sponsor may elect for a plan to
9 cease to be treated as an eligible charity plan for
10 plan years beginning after December 31, 2013. Such
11 election shall be made at such time and in such form
12 and manner as shall be prescribed by the Secretary
13 of the Treasury. Any such election may be revoked
14 only with the consent of the Secretary of the Treas-
15 ury.

16 “(3) ELECTION TO USE FUNDING OPTIONS
17 AVAILABLE TO OTHER PLAN SPONSORS.—

18 “(A) A plan sponsor that makes the elec-
19 tion described in paragraph (2) may elect for a
20 plan to apply the rules described in subpara-
21 graphs (B), (C), and (D) for plan years begin-
22 ning after December 31, 2013. Such election
23 shall be made at such time and in such form
24 and manner as shall be prescribed by the Sec-
25 retary of the Treasury. Any such election may

1 be revoked only with the consent of the Sec-
2 retary of the Treasury.

3 “(B) Under the rules described in this sub-
4 paragraph, for the first plan year beginning
5 after December 31, 2013, a plan has—

6 “(i) an 11-year shortfall amortization
7 base,

8 “(ii) a 12-year shortfall amortization
9 base, and

10 “(iii) a 7-year shortfall amortization
11 base.

12 “(C) Under the rules described in this sub-
13 paragraph, section 303(c)(2)(A) and (B) of the
14 Employee Retirement Income Security Act of
15 1974, and section 430(c)(2)(A) and (B) of the
16 Internal Revenue Code of 1986 shall be applied
17 by—

18 “(i) in the case of an 11-year shortfall
19 amortization base, substituting ‘11-plan-
20 year period’ for ‘7-plan-year period’ wher-
21 ever such phrase appears, and

22 “(ii) in the case of a 12-year shortfall
23 amortization base, substituting ‘12-plan-
24 year period’ for ‘7-plan-year period’ wher-
25 ever such phrase appears.

1 “(D) Under the rules described in this sub-
2 paragraph, section 303(c)(7) of the Employee
3 Retirement Income Security Act of 1974 and
4 section 430(c)(7) of the Internal Revenue Code
5 of 1986 shall apply to a plan for which an elec-
6 tion has been made under subparagraph (A).
7 Such provisions shall apply in the following
8 manner:

9 “(i) The first plan year beginning
10 after December 31, 2013, shall be treated
11 as an election year, and no other plan
12 years shall be so treated.

13 “(ii) All references in section
14 303(c)(7) of such Act and section
15 430(c)(7) of such Code to ‘February 28,
16 2010’ or ‘March 1, 2010’ shall be treated
17 as references to ‘February 28, 2013’ or
18 ‘March 1, 2013’, respectively.

19 “(E) For purposes of this paragraph, the
20 11-year amortization base is an amount, deter-
21 mined for the first plan year beginning after
22 December 31, 2013, equal to the unamortized
23 principal amount of the shortfall amortization
24 base (as defined in section 303(c)(3) of the Em-
25 ployee Retirement Income Security Act of 1974

1 and section 430(c)(3) of the Internal Revenue
2 Code of 1986) that would have applied to the
3 plan for the first plan beginning after Decem-
4 ber 31, 2009, if—

5 “(i) the plan had never been an eligi-
6 ble charity plan,

7 “(ii) the plan sponsor had made the
8 election described in section
9 303(c)(2)(D)(i) of the Employee Retire-
10 ment Income Security Act of 1974 and in
11 section 430(c)(2)(D)(i) of the Internal
12 Revenue Code of 1986 to have section
13 303(c)(2)(D)(i) of such Act and section
14 430(c)(2)(D)(iii) of such Code apply with
15 respect to the shortfall amortization base
16 for the first plan year beginning after De-
17 cember 31, 2009, and

18 “(iii) no event had occurred under
19 paragraph (6) or (7) of section 303(c) of
20 such Act or paragraph (6) or (7) of section
21 430(c) of such Code that, as of the first
22 day of the first plan year beginning after
23 December 31, 2013, would have modified
24 the shortfall amortization base or the
25 shortfall amortization installments with re-

1 spect to the first plan year beginning after
2 December 31, 2009.

3 “(F) For purposes of this paragraph, the
4 12-year amortization base is an amount, deter-
5 mined for the first plan year beginning after
6 December 31, 2013, equal to the unamortized
7 principal amount of the shortfall amortization
8 base (as defined in section 303(c)(3) of the Em-
9 ployee Retirement Income Security Act of 1974
10 and section 430(c)(3) of the Internal Revenue
11 Code of 1986) that would have applied to the
12 plan for the first plan beginning after Decem-
13 ber 31, 2010, if—

14 “(i) the plan had never been an eligi-
15 ble charity plan,

16 “(ii) the plan sponsor had made the
17 election described in section
18 303(c)(2)(D)(i) of the Employee Retire-
19 ment Income Security Act of 1974 and in
20 section 430(c)(2)(D)(i) of the Internal
21 Revenue Code of 1986 to have section
22 303(c)(2)(D)(i) of such Act and section
23 430(c)(2)(D)(iii) of such Code apply with
24 respect to the shortfall amortization base

1 for the first plan year beginning after De-
2 cember 31, 2010, and

3 “(iii) no event had occurred under
4 paragraph (6) or (7) of section 303(c) of
5 such Act or paragraph (6) or (7) of section
6 430(c) of such Code that, as of the first
7 day of the first plan year beginning after
8 December 31, 2013, would have modified
9 the shortfall amortization base or the
10 shortfall amortization installments with re-
11 spect to the first plan year beginning after
12 December 31, 2010.

13 “(G) For purposes of this paragraph, the
14 7-year shortfall amortization base is an amount,
15 determined for the first plan year beginning
16 after December 31, 2013, equal to—

17 “(i) the shortfall amortization base for
18 the first plan year beginning after Decem-
19 ber 31, 2013, without regard to this para-
20 graph, minus

21 “(ii) the sum of the 11-year shortfall
22 amortization base and the 12-year shortfall
23 amortization base.

24 “(4) RETROACTIVE ELECTION.—Not later than
25 December 31, 2014, a plan sponsor may make a

1 one-time, irrevocable, retroactive election to not be
2 treated as an eligible charity plan. Such election
3 shall be effective for plan years beginning after De-
4 cember 31, 2007, and shall be made by providing
5 reasonable notice to the Secretary of the Treasury.”.

6 (c) DEEMED ELECTION.—For purposes of the Inter-
7 nal Revenue Code of 1986, sections 4(b)(2) and
8 4021(b)(3) of the Employee Retirement Income Security
9 Act of 1974, and all other purposes, a plan shall be
10 deemed to have made an irrevocable election under section
11 410(d) of the Internal Revenue Code of 1986 if—

12 (1) the plan was established before January 1,
13 2014;

14 (2) the plan falls within the definition of a
15 CSEC plan;

16 (3) the plan sponsor does not make an election
17 under section 210(f)(3)(A) of the Employee Retirement
18 Income Security Act of 1974 and section
19 414(y)(3)(A) of the Internal Revenue Code of 1986,
20 as added by this Act; and

21 (4) the plan, plan sponsor, administrator, or fi-
22 duciary remits one or more premium payments for
23 the plan to the Pension Benefit Guaranty Corpora-
24 tion for a plan year beginning after December 31,
25 2013.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply as of the date of enactment of this
3 Act.

4 **SEC. 104. TRANSPARENCY.**

5 (a) NOTICE TO PARTICIPANTS.—

6 (1) IN GENERAL.—Paragraph (2) of section
7 101(f) of the Employee Retirement Income Security
8 Act of 1974 (29 U.S.C. 1021(f)) is amended by add-
9 ing at the end the following new subparagraph:

10 “(E) EFFECT OF CSEC PLAN RULES ON
11 PLAN FUNDING.—In the case of a CSEC plan,
12 each notice under paragraph (1) shall include—

13 “(i) a statement that different rules
14 apply to CSEC plans than apply to single-
15 employer plans,

16 “(ii) for the first 2 plan years begin-
17 ning after December 31, 2013, a statement
18 that, as a result of changes in the law
19 made by the Cooperative and Small Em-
20 ployer Charity Pension Flexibility Act, the
21 contributions to the plan may have
22 changed, and

23 “(iii) in the case of a CSEC plan that
24 is in funding restoration status for the
25 plan year, a statement that the plan is in

1 funding restoration status for such plan
2 year.

3 A copy of the statement required under clause
4 (iii) shall be provided to the Secretary, the Sec-
5 retary of the Treasury, and the Director of the
6 Pension Benefit Guaranty Corporation.”.

7 (2) MODEL NOTICE.—The Secretary of Labor
8 may modify the model notice required to be pub-
9 lished under section 501(c) of the Pension Protec-
10 tion Act of 2006 to include the information de-
11 scribed in section 101(f)(2)(E) of the Employee Re-
12 tirement Income Security Act of 1974, as added by
13 this subsection.

14 (b) NOTICE OF FAILURE TO MEET MINIMUM FUND-
15 ING STANDARDS.—

16 (1) PENDING WAIVERS.—Paragraph (2) of sec-
17 tion 101(d) of the Employee Retirement Income Se-
18 curity Act of 1974 (29 U.S.C. 1021(d)) is amended
19 by striking “303” and inserting “303 or 306”.

20 (2) DEFINITIONS.—Paragraph (3) of section
21 101(d) of the Employee Retirement Income Security
22 Act of 1974 (21 U.S.C. 1021(d)) is amended by
23 striking “303(j)” and inserting “303(j) or 306(f),
24 whichever is applicable”.

1 (c) **ADDITIONAL REPORTING REQUIREMENTS.**—Sec-
2 tion 103 of the Employee Retirement Income Security Act
3 of 1974 (29 U.S.C. 1023) is amended by adding at the
4 end the following new subsection:

5 “(g) **ADDITIONAL INFORMATION WITH RESPECT TO**
6 **MULTIPLE EMPLOYER PLANS.**—With respect to any mul-
7 tiple employer plan, an annual report under this section
8 for a plan year shall include a list of participating employ-
9 ers and a good faith estimate of the percentage of total
10 contributions made by such participating employers dur-
11 ing the plan year.”.

12 **SEC. 105. SPONSOR EDUCATION AND ASSISTANCE.**

13 (a) **DEFINITION.**—In this section, the term “CSEC
14 plan” has the meaning given that term in subsection (f)(1)
15 of section 210 of the Employee Retirement Income Secu-
16 rity Act of 1974 (29 U.S.C. 1060(f)(1)) (as added by this
17 Act).

18 (b) **EDUCATION.**—The Participant and Plan Sponsor
19 Advocate established under section 4004 of the Employee
20 Retirement Income Security Act of 1974 (29 U.S.C. 1304)
21 shall make itself available to assist CSEC plan sponsors
22 and participants as part of the duties it performs under
23 the general supervision of the Board of Directors under
24 section 4004(b) of such Act (29 U.S.C. 1304(b)).

1 **TITLE II—AMENDMENTS TO IN-**
2 **TERNAL REVENUE CODE OF**
3 **1986**

4 **SEC. 201. DEFINITION OF COOPERATIVE AND SMALL EM-**
5 **PLOYER CHARITY PENSION PLANS.**

6 Section 414 of the Internal Revenue Code of 1986
7 is amended by adding at the end the following new sub-
8 section:

9 “(y) COOPERATIVE AND SMALL EMPLOYER CHARITY
10 PENSION PLANS.—

11 “(1) IN GENERAL.—For purposes of this title,
12 except as provided in this subsection, a CSEC plan
13 is a defined benefit plan (other than a multiemployer
14 plan)—

15 “(A) to which section 104 of the Pension
16 Protection Act of 2006 applies, without regard
17 to—

18 “(i) section 104(a)(2) of such Act;

19 “(ii) the amendments to such section
20 104 by section 202(b) of the Preservation
21 of Access to Care for Medicare Bene-
22 ficiaries and Pension Relief Act of 2010;
23 and

24 “(iii) paragraph (3)(B); or

1 “(B) that, as of June 25, 2010, was main-
2 tained by more than one employer and all of the
3 employers were organizations described in sec-
4 tion 501(c)(3).

5 “(2) AGGREGATION.—All employers that are
6 treated as a single employer under subsection (b) or
7 (c) shall be treated as a single employer for purposes
8 of determining if a plan was maintained by more
9 than one employer under paragraph (1)(B).”.

10 **SEC. 202. FUNDING RULES APPLICABLE TO COOPERATIVE**
11 **AND SMALL EMPLOYER CHARITY PENSION**
12 **PLANS.**

13 (a) IN GENERAL.—Subpart A of part III of sub-
14 chapter D of chapter 1 of subtitle A of the Internal Rev-
15 enue Code of 1986 is amended by adding at the end the
16 following new section:

17 **“SEC. 433. MINIMUM FUNDING STANDARDS.**

18 “(a) GENERAL RULE.—For purposes of section 412,
19 the term ‘accumulated funding deficiency’ for a CSEC
20 plan means the excess of the total charges to the funding
21 standard account for all plan years (beginning with the
22 first plan year to which section 412 applies) over the total
23 credits to such account for such years or, if less, the excess
24 of the total charges to the alternative minimum funding

1 standard account for such plan years over the total credits
2 to such account for such years.

3 “(b) FUNDING STANDARD ACCOUNT.—

4 “(1) ACCOUNT REQUIRED.—Each plan to which
5 this section applies shall establish and maintain a
6 funding standard account. Such account shall be
7 credited and charged solely as provided in this sec-
8 tion.

9 “(2) CHARGES TO ACCOUNT.—For a plan year,
10 the funding standard account shall be charged with
11 the sum of—

12 “(A) the normal cost of the plan for the
13 plan year,

14 “(B) the amounts necessary to amortize in
15 equal annual installments (until fully amor-
16 tized)—

17 “(i) in the case of a plan in existence
18 on January 1, 1974, the unfunded past
19 service liability under the plan on the first
20 day of the first plan year to which section
21 412 applies, over a period of 40 plan years,

22 “(ii) in the case of a plan which comes
23 into existence after January 1, 1974, but
24 before the first day of the first plan year
25 beginning after December 31, 2013, the

1 unfunded past service liability under the
2 plan on the first day of the first plan year
3 to which section 412 applies, over a period
4 of 30 plan years,

5 “(iii) separately, with respect to each
6 plan year, the net increase (if any) in un-
7 funded past service liability under the plan
8 arising from plan amendments adopted in
9 such year, over a period of 15 plan years,

10 “(iv) separately, with respect to each
11 plan year, the net experience loss (if any)
12 under the plan, over a period of 5 plan
13 years, and

14 “(v) separately, with respect to each
15 plan year, the net loss (if any) resulting
16 from changes in actuarial assumptions
17 used under the plan, over a period of 10
18 plan years,

19 “(C) the amount necessary to amortize
20 each waived funding deficiency (within the
21 meaning of section 412(c)(3)) for each prior
22 plan year in equal annual installments (until
23 fully amortized) over a period of 5 plan years,

24 “(D) the amount necessary to amortize in
25 equal annual installments (until fully amor-

1 tized) over a period of 5 plan years any amount
2 credited to the funding standard account under
3 paragraph (3)(D), and

4 “(E) the amount necessary to amortize in
5 equal annual installments (until fully amor-
6 tized) over a period of 20 years the contribu-
7 tions which would be required to be made under
8 the plan but for the provisions of section
9 412(c)(7)(A)(i)(I) (as in effect on the day be-
10 fore the enactment of the Pension Protection
11 Act of 2006).

12 “(3) CREDITS TO ACCOUNT.—For a plan year,
13 the funding standard account shall be credited with
14 the sum of—

15 “(A) the amount considered contributed by
16 the employer to or under the plan for the plan
17 year,

18 “(B) the amount necessary to amortize in
19 equal annual installments (until fully amor-
20 tized)—

21 “(i) separately, with respect to each
22 plan year, the net decrease (if any) in un-
23 funded past service liability under the plan
24 arising from plan amendments adopted in
25 such year, over a period of 15 plan years,

1 “(ii) separately, with respect to each
2 plan year, the net experience gain (if any)
3 under the plan, over a period of 5 plan
4 years, and

5 “(iii) separately, with respect to each
6 plan year, the net gain (if any) resulting
7 from changes in actuarial assumptions
8 used under the plan, over a period of 10
9 plan years,

10 “(C) the amount of the waived funding de-
11 ficiency (within the meaning of section
12 412(c)(3)) for the plan year, and

13 “(D) in the case of a plan year for which
14 the accumulated funding deficiency is deter-
15 mined under the funding standard account if
16 such plan year follows a plan year for which
17 such deficiency was determined under the alter-
18 native minimum funding standard, the excess
19 (if any) of any debit balance in the funding
20 standard account (determined without regard to
21 this subparagraph) over any debit balance in
22 the alternative minimum funding standard ac-
23 count.

24 “(4) COMBINING AND OFFSETTING AMOUNTS
25 TO BE AMORTIZED.—Under regulations prescribed

1 by the Secretary, amounts required to be amortized
2 under paragraph (2) or paragraph (3), as the case
3 may be—

4 “(A) may be combined into one amount
5 under such paragraph to be amortized over a
6 period determined on the basis of the remaining
7 amortization period for all items entering into
8 such combined amount, and

9 “(B) may be offset against amounts re-
10 quired to be amortized under the other such
11 paragraph, with the resulting amount to be am-
12 ortized over a period determined on the basis of
13 the remaining amortization periods for all items
14 entering into whichever of the two amounts
15 being offset is the greater.

16 “(5) INTEREST.—

17 “(A) IN GENERAL.—Except as provided in
18 subparagraph (B), the funding standard ac-
19 count (and items therein) shall be charged or
20 credited (as determined under regulations pre-
21 scribed by the Secretary) with interest at the
22 appropriate rate consistent with the rate or
23 rates of interest used under the plan to deter-
24 mine costs.

1 “(B) EXCEPTION.—The interest rate used
2 for purposes of computing the amortization
3 charge described in subsection (b)(2)(C) or for
4 purposes of any arrangement under subsection
5 (d) for any plan year shall be the greater of—

6 “(i) 150 percent of the Federal mid-
7 term rate (as in effect under section 1274
8 for the 1st month of such plan year), or

9 “(ii) the rate of interest determined
10 under subparagraph (A).

11 “(6) AMORTIZATION SCHEDULES IN EFFECT.—
12 Amortization schedules for amounts described in
13 paragraphs (2) and (3) that are in effect as of the
14 last day of the last plan year beginning before Janu-
15 ary 1, 2014, by reason of section 104 of the Pension
16 Protection Act of 2006 shall remain in effect pursu-
17 ant to their terms and this section, except that such
18 amounts shall not be amortized again under this sec-
19 tion.

20 “(c) SPECIAL RULES.—

21 “(1) DETERMINATIONS TO BE MADE UNDER
22 FUNDING METHOD.—For purposes of this section,
23 normal costs, accrued liability, past service liabilities,
24 and experience gains and losses shall be determined

1 under the funding method used to determine costs
2 under the plan.

3 “(2) VALUATION OF ASSETS.—

4 “(A) IN GENERAL.—For purposes of this
5 section, the value of the plan’s assets shall be
6 determined on the basis of any reasonable actu-
7 arial method of valuation which takes into ac-
8 count fair market value and which is permitted
9 under regulations prescribed by the Secretary.

10 “(B) DEDICATED BOND PORTFOLIO.—The
11 Secretary may by regulations provide that the
12 value of any dedicated bond portfolio of a plan
13 shall be determined by using the interest rate
14 under section 412(b)(5) (as in effect on the day
15 before the enactment of the Pension Protection
16 Act of 2006).

17 “(3) ACTUARIAL ASSUMPTIONS MUST BE REA-
18 SONABLE.—For purposes of this section, all costs, li-
19 abilities, rates of interest, and other factors under
20 the plan shall be determined on the basis of actu-
21 arial assumptions and methods—

22 “(A) each of which is reasonable (taking
23 into account the experience of the plan and rea-
24 sonable expectations), and

1 “(B) which, in combination, offer the actu-
2 ary’s best estimate of anticipated experience
3 under the plan.

4 “(4) TREATMENT OF CERTAIN CHANGES AS EX-
5 PERIENCE GAIN OR LOSS.—For purposes of this sec-
6 tion, if—

7 “(A) a change in benefits under the Social
8 Security Act or in other retirement benefits cre-
9 ated under Federal or State law, or

10 “(B) a change in the definition of the term
11 ‘wages’ under section 3121 or a change in the
12 amount of such wages taken into account under
13 regulations prescribed for purposes of section
14 401(a)(5),

15 results in an increase or decrease in accrued liability
16 under a plan, such increase or decrease shall be
17 treated as an experience loss or gain.

18 “(5) FUNDING METHOD AND PLAN YEAR.—

19 “(A) FUNDING METHODS AVAILABLE.—All
20 funding methods available to CSEC plans under
21 section 412 (as in effect on the day before the
22 enactment of the Pension Protection Act of
23 2006) shall continue to be available under this
24 section.

1 “(B) CHANGES.—If the funding method
2 for a plan is changed, the new funding method
3 shall become the funding method used to deter-
4 mine costs and liabilities under the plan only if
5 the change is approved by the Secretary. If the
6 plan year for a plan is changed, the new plan
7 year shall become the plan year for the plan
8 only if the change is approved by the Secretary.

9 “(C) APPROVAL REQUIRED FOR CERTAIN
10 CHANGES IN ASSUMPTIONS BY CERTAIN SIN-
11 GLE-EMPLOYER PLANS SUBJECT TO ADDI-
12 TIONAL FUNDING REQUIREMENT.—

13 “(i) IN GENERAL.—No actuarial as-
14 sumption (other than the assumptions de-
15 scribed in subsection (h)(3)) used to deter-
16 mine the current liability for a plan to
17 which this subparagraph applies may be
18 changed without the approval of the Sec-
19 retary.

20 “(ii) PLANS TO WHICH SUBPARA-
21 GRAPH APPLIES.—This subparagraph shall
22 apply to a plan only if—

23 “(I) the plan is a CSEC plan,

24 “(II) the aggregate unfunded
25 vested benefits as of the close of the

1 preceding plan year (as determined
2 under section 4006(a)(3)(E)(iii) of the
3 Employee Retirement Income Security
4 Act of 1974) of such plan and all
5 other plans maintained by the contrib-
6 uting sponsors (as defined in section
7 4001(a)(13) of such Act) and mem-
8 bers of such sponsors' controlled
9 groups (as defined in section
10 4001(a)(14) of such Act) which are
11 covered by title IV (disregarding plans
12 with no unfunded vested benefits) ex-
13 ceed \$50,000,000, and

14 “(III) the change in assumptions
15 (determined after taking into account
16 any changes in interest rate and mor-
17 tality table) results in a decrease in
18 the funding shortfall of the plan for
19 the current plan year that exceeds
20 \$50,000,000, or that exceeds
21 \$5,000,000 and that is 5 percent or
22 more of the current liability of the
23 plan before such change.

24 “(6) FULL FUNDING.—If, as of the close of a
25 plan year, a plan would (without regard to this para-

1 graph) have an accumulated funding deficiency (de-
2 termined without regard to the alternative minimum
3 funding standard account permitted under sub-
4 section (e)) in excess of the full funding limitation—

5 “(A) the funding standard account shall be
6 credited with the amount of such excess, and

7 “(B) all amounts described in paragraphs
8 (2)(B), (C), and (D) and (3)(B) of subsection
9 (b) which are required to be amortized shall be
10 considered fully amortized for purposes of such
11 paragraphs.

12 “(7) FULL-FUNDING LIMITATION.—For pur-
13 poses of paragraph (6), the term ‘full-funding limita-
14 tion’ means the excess (if any) of—

15 “(A) the accrued liability (including nor-
16 mal cost) under the plan (determined under the
17 entry age normal funding method if such ac-
18 crued liability cannot be directly calculated
19 under the funding method used for the plan),
20 over

21 “(B) the lesser of—

22 “(i) the fair market value of the
23 plan’s assets, or

24 “(ii) the value of such assets deter-
25 mined under paragraph (2).

1 “(C) MINIMUM AMOUNT.—

2 “(i) IN GENERAL.—In no event shall
3 the full-funding limitation determined
4 under subparagraph (A) be less than the
5 excess (if any) of—

6 “(I) 90 percent of the current li-
7 ability (determined without regard to
8 paragraph (4) of subsection (h)) of
9 the plan (including the expected in-
10 crease in such current liability due to
11 benefits accruing during the plan
12 year), over

13 “(II) the value of the plan’s as-
14 sets determined under paragraph (2).

15 “(ii) ASSETS.—For purposes of clause
16 (i), assets shall not be reduced by any
17 credit balance in the funding standard ac-
18 count.

19 “(8) ANNUAL VALUATION.—

20 “(A) IN GENERAL.—For purposes of this
21 section, a determination of experience gains and
22 losses and a valuation of the plan’s liability
23 shall be made not less frequently than once
24 every year, except that such determination shall
25 be made more frequently to the extent required

1 in particular cases under regulations prescribed
2 by the Secretary.

3 “(B) VALUATION DATE.—

4 “(i) CURRENT YEAR.—Except as pro-
5 vided in clause (ii), the valuation referred
6 to in subparagraph (A) shall be made as of
7 a date within the plan year to which the
8 valuation refers or within one month prior
9 to the beginning of such year.

10 “(ii) USE OF PRIOR YEAR VALU-
11 ATION.—The valuation referred to in sub-
12 paragraph (A) may be made as of a date
13 within the plan year prior to the year to
14 which the valuation refers if, as of such
15 date, the value of the assets of the plan are
16 not less than 100 percent of the plan’s cur-
17 rent liability.

18 “(iii) ADJUSTMENTS.—Information
19 under clause (ii) shall, in accordance with
20 regulations, be actuarially adjusted to re-
21 flect significant differences in participants.

22 “(iv) LIMITATION.—A change in fund-
23 ing method to use a prior year valuation,
24 as provided in clause (ii), may not be made
25 unless as of the valuation date within the

1 prior plan year, the value of the assets of
2 the plan are not less than 125 percent of
3 the plan's current liability.

4 “(9) TIME WHEN CERTAIN CONTRIBUTIONS
5 DEEMED MADE.—For purposes of this section, any
6 contributions for a plan year made by an employer
7 during the period—

8 “(A) beginning on the day after the last
9 day of such plan year, and

10 “(B) ending on the day which is 8½
11 months after the close of the plan year,
12 shall be deemed to have been made on such last day.

13 “(10) ANTICIPATION OF BENEFIT INCREASES
14 EFFECTIVE IN THE FUTURE.—In determining pro-
15 jected benefits, the funding method of a collectively
16 bargained CSEC plan described in section 413(a)
17 shall anticipate benefit increases scheduled to take
18 effect during the term of the collective bargaining
19 agreement applicable to the plan.

20 “(d) EXTENSION OF AMORTIZATION PERIODS.—The
21 period of years required to amortize any unfunded liability
22 (described in any clause of subsection (b)(2)(B)) of any
23 plan may be extended by the Secretary for a period of
24 time (not in excess of 10 years) if the Secretary deter-
25 mines that such extension would carry out the purposes

1 of the Employee Retirement Income Security Act of 1974
2 and provide adequate protection for participants under the
3 plan and their beneficiaries, and if the Secretary deter-
4 mines that the failure to permit such extension would re-
5 sult in—

6 “(1) a substantial risk to the voluntary continu-
7 ation of the plan, or

8 “(2) a substantial curtailment of pension ben-
9 efit levels or employee compensation.

10 “(e) ALTERNATIVE MINIMUM FUNDING STAND-
11 ARD.—

12 “(1) IN GENERAL.—A CSEC plan which uses a
13 funding method that requires contributions in all
14 years not less than those required under the entry
15 age normal funding method may maintain an alter-
16 native minimum funding standard account for any
17 plan year. Such account shall be credited and
18 charged solely as provided in this subsection.

19 “(2) CHARGES AND CREDITS TO ACCOUNT.—
20 For a plan year the alternative minimum funding
21 standard account shall be—

22 “(A) charged with the sum of—

23 “(i) the lesser of normal cost under
24 the funding method used under the plan or

1 normal cost determined under the unit
2 credit method,

3 “(ii) the excess, if any, of the present
4 value of accrued benefits under the plan
5 over the fair market value of the assets,
6 and

7 “(iii) an amount equal to the excess
8 (if any) of credits to the alternative min-
9 imum standard account for all prior plan
10 years over charges to such account for all
11 such years, and

12 “(B) credited with the amount considered
13 contributed by the employer to or under the
14 plan for the plan year.

15 “(3) INTEREST.—The alternative minimum
16 funding standard account (and items therein) shall
17 be charged or credited with interest in the manner
18 provided under subsection (b)(5) with respect to the
19 funding standard account.

20 “(f) QUARTERLY CONTRIBUTIONS REQUIRED.—

21 “(1) IN GENERAL.—If a CSEC plan which has
22 a funded current liability percentage for the pre-
23 ceding plan year of less than 100 percent fails to
24 pay the full amount of a required installment for the
25 plan year, then the rate of interest charged to the

1 funding standard account under subsection (b)(5)
2 with respect to the amount of the underpayment for
3 the period of the underpayment shall be equal to the
4 greater of—

5 “(A) 175 percent of the Federal mid-term
6 rate (as in effect under section 1274 for the 1st
7 month of such plan year), or

8 “(B) the rate of interest used under the
9 plan in determining costs.

10 “(2) AMOUNT OF UNDERPAYMENT, PERIOD OF
11 UNDERPAYMENT.—For purposes of paragraph (1)—

12 “(A) AMOUNT.—The amount of the under-
13 payment shall be the excess of—

14 “(i) the required installment, over

15 “(ii) the amount (if any) of the in-
16 stallment contributed to or under the plan
17 on or before the due date for the install-
18 ment.

19 “(B) PERIOD OF UNDERPAYMENT.—The
20 period for which interest is charged under this
21 subsection with regard to any portion of the un-
22 derpayment shall run from the due date for the
23 installment to the date on which such portion is
24 contributed to or under the plan (determined
25 without regard to subsection (c)(9)).

1 “(C) ORDER OF CREDITING CONTRIBU-
2 TIONS.—For purposes of subparagraph (A)(ii),
3 contributions shall be credited against unpaid
4 required installments in the order in which such
5 installments are required to be paid.

6 “(3) NUMBER OF REQUIRED INSTALLMENTS;
7 DUE DATES.—For purposes of this subsection—

8 “(A) PAYABLE IN 4 INSTALLMENTS.—
9 There shall be 4 required installments for each
10 plan year.

11 “(B) TIME FOR PAYMENT OF INSTALL-
12 MENTS.—

**“In the case of the following
required installments:**

The due date is:

1st	April 15
2nd	July 15
3rd	October 15
4th	January 15 of the following year.

13 “(4) AMOUNT OF REQUIRED INSTALLMENT.—
14 For purposes of this subsection—

15 “(A) IN GENERAL.—The amount of any
16 required installment shall be 25 percent of the
17 required annual payment.

18 “(B) REQUIRED ANNUAL PAYMENT.—For
19 purposes of subparagraph (A), the term ‘re-
20 quired annual payment’ means the lesser of—

1 “(i) 90 percent of the amount re-
2 quired to be contributed to or under the
3 plan by the employer for the plan year
4 under section 412 (without regard to any
5 waiver under subsection (c) thereof), or

6 “(ii) 100 percent of the amount so re-
7 quired for the preceding plan year.

8 Clause (ii) shall not apply if the preceding plan
9 year was not a year of 12 months.

10 “(5) LIQUIDITY REQUIREMENT.—

11 “(A) IN GENERAL.—A plan to which this
12 paragraph applies shall be treated as failing to
13 pay the full amount of any required installment
14 to the extent that the value of the liquid assets
15 paid in such installment is less than the liquid-
16 ity shortfall (whether or not such liquidity
17 shortfall exceeds the amount of such install-
18 ment required to be paid but for this para-
19 graph).

20 “(B) PLANS TO WHICH PARAGRAPH AP-
21 PLIES.—This paragraph shall apply to a CSEC
22 plan other than a plan described in section
23 412(l)(6)(A) (as in effect on the day before the
24 enactment of the Pension Protection Act of
25 2006) which—

1 “(i) is required to pay installments
2 under this subsection for a plan year, and

3 “(ii) has a liquidity shortfall for any
4 quarter during such plan year.

5 “(C) PERIOD OF UNDERPAYMENT.—For
6 purposes of paragraph (1), any portion of an
7 installment that is treated as not paid under
8 subparagraph (A) shall continue to be treated
9 as unpaid until the close of the quarter in
10 which the due date for such installment occurs.

11 “(D) LIMITATION ON INCREASE.—If the
12 amount of any required installment is increased
13 by reason of subparagraph (A), in no event
14 shall such increase exceed the amount which,
15 when added to prior installments for the plan
16 year, is necessary to increase the funded cur-
17 rent liability percentage (taking into account
18 the expected increase in current liability due to
19 benefits accruing during the plan year) to 100
20 percent.

21 “(E) DEFINITIONS.—For purposes of this
22 paragraph—

23 “(i) LIQUIDITY SHORTFALL.—The
24 term ‘liquidity shortfall’ means, with re-
25 spect to any required installment, an

1 amount equal to the excess (as of the last
2 day of the quarter for which such install-
3 ment is made) of the base amount with re-
4 spect to such quarter over the value (as of
5 such last day) of the plan's liquid assets.

6 “(ii) BASE AMOUNT.—

7 “(I) IN GENERAL.—The term
8 ‘base amount’ means, with respect to
9 any quarter, an amount equal to 3
10 times the sum of the adjusted dis-
11 bursements from the plan for the 12
12 months ending on the last day of such
13 quarter.

14 “(II) SPECIAL RULE.—If the
15 amount determined under subclause
16 (I) exceeds an amount equal to 2
17 times the sum of the adjusted dis-
18 bursements from the plan for the 36
19 months ending on the last day of the
20 quarter and an enrolled actuary cer-
21 tifies to the satisfaction of the Sec-
22 retary that such excess is the result of
23 nonrecurring circumstances, the base
24 amount with respect to such quarter
25 shall be determined without regard to

1 amounts related to those nonrecurring
2 circumstances.

3 “(iii) DISBURSEMENTS FROM THE
4 PLAN.—The term ‘disbursements from the
5 plan’ means all disbursements from the
6 trust, including purchases of annuities,
7 payments of single sums and other bene-
8 fits, and administrative expenses.

9 “(iv) ADJUSTED DISBURSEMENTS.—
10 The term ‘adjusted disbursements’ means
11 disbursements from the plan reduced by
12 the product of—

13 “(I) the plan’s funded current li-
14 ability percentage for the plan year,
15 and

16 “(II) the sum of the purchases of
17 annuities, payments of single sums,
18 and such other disbursements as the
19 Secretary shall provide in regulations.

20 “(v) LIQUID ASSETS.—The term ‘liq-
21 uid assets’ means cash, marketable securi-
22 ties and such other assets as specified by
23 the Secretary in regulations.

24 “(vi) QUARTER.—The term ‘quarter’
25 means, with respect to any required install-

1 ment, the 3-month period preceding the
2 month in which the due date for such in-
3 stallment occurs.

4 “(F) REGULATIONS.—The Secretary may
5 prescribe such regulations as are necessary to
6 carry out this paragraph.

7 “(6) FISCAL YEARS AND SHORT YEARS.—

8 “(A) FISCAL YEARS.—In applying this
9 subsection to a plan year beginning on any date
10 other than January 1, there shall be substituted
11 for the months specified in this subsection, the
12 months which correspond thereto.

13 “(B) SHORT PLAN YEAR.—This subsection
14 shall be applied to plan years of less than 12
15 months in accordance with regulations pre-
16 scribed by the Secretary.

17 “(g) IMPOSITION OF LIEN WHERE FAILURE TO
18 MAKE REQUIRED CONTRIBUTIONS.—

19 “(1) IN GENERAL.—In the case of a plan to
20 which this section applies, if—

21 “(A) any person fails to make a required
22 installment under subsection (f) or any other
23 payment required under this section before the
24 due date for such installment or other payment,
25 and

1 “(B) the unpaid balance of such install-
2 ment or other payment (including interest),
3 when added to the aggregate unpaid balance of
4 all preceding such installments or other pay-
5 ments for which payment was not made before
6 the due date (including interest), exceeds
7 \$1,000,000,

8 then there shall be a lien in favor of the plan in the
9 amount determined under paragraph (3) upon all
10 property and rights to property, whether real or per-
11 sonal, belonging to such person and any other per-
12 son who is a member of the same controlled group
13 of which such person is a member.

14 “(2) PLANS TO WHICH SUBSECTION APPLIES.—
15 This subsection shall apply to a CSEC plan for any
16 plan year for which the funded current liability per-
17 centage of such plan is less than 100 percent. This
18 subsection shall not apply to any plan to which sec-
19 tion 4021 of the Employee Retirement Income Secu-
20 rity Act of 1974 does not apply (as such section is
21 in effect on the date of the enactment of the Retire-
22 ment Protection Act of 1994).

23 “(3) AMOUNT OF LIEN.—For purposes of para-
24 graph (1), the amount of the lien shall be equal to
25 the aggregate unpaid balance of required install-

1 ments and other payments required under this sec-
2 tion (including interest)—

3 “(A) for plan years beginning after 1987,

4 and

5 “(B) for which payment has not been
6 made before the due date.

7 “(4) NOTICE OF FAILURE; LIEN.—

8 “(A) NOTICE OF FAILURE.—A person
9 committing a failure described in paragraph (1)
10 shall notify the Pension Benefit Guaranty Cor-
11 poration of such failure within 10 days of the
12 due date for the required installment or other
13 payment.

14 “(B) PERIOD OF LIEN.—The lien imposed
15 by paragraph (1) shall arise on the due date for
16 the required installment or other payment and
17 shall continue until the last day of the first plan
18 year in which the plan ceases to be described in
19 paragraph (1)(B). Such lien shall continue to
20 run without regard to whether such plan con-
21 tinues to be described in paragraph (2) during
22 the period referred to in the preceding sentence.

23 “(C) CERTAIN RULES TO APPLY.—Any
24 amount with respect to which a lien is imposed
25 under paragraph (1) shall be treated as taxes

1 due and owing the United States and rules
2 similar to the rules of subsections (c), (d), and
3 (e) of section 4068 of the Employee Retirement
4 Income Security Act of 1974 shall apply with
5 respect to a lien imposed by subsection (a) and
6 the amount with respect to such lien.

7 “(5) ENFORCEMENT.—Any lien created under
8 paragraph (1) may be perfected and enforced only
9 by the Pension Benefit Guaranty Corporation, or at
10 the direction of the Pension Benefit Guaranty Cor-
11 poration, by any contributing employer (or any
12 member of the controlled group of the contributing
13 employer).

14 “(6) DEFINITIONS.—For purposes of this sub-
15 section—

16 “(A) DUE DATE; REQUIRED INSTALL-
17 MENT.—The terms ‘due date’ and ‘required in-
18 stallment’ have the meanings given such terms
19 by subsection (f), except that in the case of a
20 payment other than a required installment, the
21 due date shall be the date such payment is re-
22 quired to be made under this section.

23 “(B) CONTROLLED GROUP.—The term
24 ‘controlled group’ means any group treated as

1 a single employer under subsections (b), (c),
2 (m), and (o) of section 414.

3 “(h) CURRENT LIABILITY.—For purposes of this sec-
4 tion—

5 “(1) IN GENERAL.—The term ‘current liability’
6 means all liabilities to employees and their bene-
7 ficiaries under the plan.

8 “(2) TREATMENT OF UNPREDICTABLE CONTIN-
9 GENT EVENT BENEFITS.—

10 “(A) IN GENERAL.—For purposes of para-
11 graph (1), any unpredictable contingent event
12 benefit shall not be taken into account until the
13 event on which the benefit is contingent occurs.

14 “(B) UNPREDICTABLE CONTINGENT
15 EVENT BENEFIT.—The term ‘unpredictable
16 contingent event benefit’ means any benefit
17 contingent on an event other than—

18 “(i) age, service, compensation, death,
19 or disability, or

20 “(ii) an event which is reasonably and
21 reliably predictable (as determined by the
22 Secretary).

23 “(3) INTEREST RATE AND MORTALITY ASSUMP-
24 TIONS USED.—

1 “(A) INTEREST RATE.—The rate of inter-
2 est used to determine current liability under
3 this section shall be the third segment rate de-
4 termined under section 430(h)(2)(C).

5 “(B) MORTALITY TABLES.—

6 “(i) SECRETARIAL AUTHORITY.—The
7 Secretary may by regulation prescribe mor-
8 tality tables to be used in determining cur-
9 rent liability under this subsection. Such
10 tables shall be based upon the actual expe-
11 rience of pension plans and projected
12 trends in such experience. In prescribing
13 such tables, the Secretary shall take into
14 account results of available independent
15 studies of mortality of individuals covered
16 by pension plans.

17 “(ii) PERIODIC REVIEW.—The Sec-
18 retary shall periodically (at least every 5
19 years) review any tables in effect under
20 this subsection and shall, to the extent the
21 Secretary determines necessary, by regula-
22 tion update the tables to reflect the actual
23 experience of pension plans and projected
24 trends in such experience.

1 “(C) SEPARATE MORTALITY TABLES FOR
2 THE DISABLED.—Notwithstanding subpara-
3 graph (B)—

4 “(i) IN GENERAL.—In the case of
5 plan years beginning after December 31,
6 1995, the Secretary shall establish mor-
7 tality tables which may be used (in lieu of
8 the tables under subparagraph (B)) to de-
9 termine current liability under this sub-
10 section for individuals who are entitled to
11 benefits under the plan on account of dis-
12 ability. The Secretary shall establish sepa-
13 rate tables for individuals whose disabil-
14 ities occur in plan years beginning before
15 January 1, 1995, and for individuals
16 whose disabilities occur in plan years be-
17 ginning on or after such date.

18 “(ii) SPECIAL RULE FOR DISABILITIES
19 OCCURRING AFTER 1994.—In the case of
20 disabilities occurring in plan years begin-
21 ning after December 31, 1994, the tables
22 under clause (i) shall apply only with re-
23 spect to individuals described in such sub-
24 clause who are disabled within the meaning

1 of title II of the Social Security Act and
2 the regulations thereunder.

3 “(4) CERTAIN SERVICE DISREGARDED.—

4 “(A) IN GENERAL.—In the case of a par-
5 ticipant to whom this paragraph applies, only
6 the applicable percentage of the years of service
7 before such individual became a participant
8 shall be taken into account in computing the
9 current liability of the plan.

10 “(B) APPLICABLE PERCENTAGE.—For
11 purposes of this subparagraph, the applicable
12 percentage shall be determined as follows:

“If the years of participation are:	The applicable percentage is:
1	20
2	40
3	60
4	80
5 or more	100.

13 “(C) PARTICIPANTS TO WHOM PARAGRAPH
14 APPLIES.—This subparagraph shall apply to
15 any participant who, at the time of becoming a
16 participant—

17 “(i) has not accrued any other benefit
18 under any defined benefit plan (whether or
19 not terminated) maintained by the em-
20 ployer or a member of the same controlled
21 group of which the employer is a member,

1 “(ii) who first becomes a participant
2 under the plan in a plan year beginning
3 after December 31, 1987, and

4 “(iii) has years of service greater than
5 the minimum years of service necessary for
6 eligibility to participate in the plan.

7 “(D) ELECTION.—An employer may elect
8 not to have this subparagraph apply. Such an
9 election, once made, may be revoked only with
10 the consent of the Secretary.

11 “(i) FUNDED CURRENT LIABILITY PERCENTAGE.—
12 For purposes of this section, the term ‘funded current li-
13 ability percentage’ means, with respect to any plan year,
14 the percentage which—

15 “(1) the value of the plan’s assets determined
16 under subsection (c)(2), is of

17 “(2) the current liability under the plan.

18 “(j) FUNDING RESTORATION STATUS.—Notwith-
19 standing any other provisions of this section—

20 “(1) NORMAL COST PAYMENT.—

21 “(A) IN GENERAL.—In the case of a
22 CSEC plan that is in funding restoration status
23 for a plan year, for purposes of section 412, the
24 term ‘accumulated funding deficiency’ means,
25 for such plan year, the greater of—

1 “(i) the amount described in sub-
2 section (a), or

3 “(ii) the excess of the normal cost of
4 the plan for the plan year over the amount
5 actually contributed to or under the plan
6 for the plan year.

7 “(B) NORMAL COST.—In the case of a
8 CSEC plan that uses a spread gain funding
9 method, for purposes of this subsection, the
10 term ‘normal cost’ means normal cost as deter-
11 mined under the entry age normal funding
12 method.

13 “(2) PLAN AMENDMENTS.—In the case of a
14 CSEC plan that is in funding restoration status for
15 a plan year, no amendment to such plan may take
16 effect during such plan year if such amendment has
17 the effect of increasing liabilities of the plan by
18 means of increases in benefits, establishment of new
19 benefits, changing the rate of benefit accrual, or
20 changing the rate at which benefits become non-
21 forfeitable. This paragraph shall not apply to any
22 plan amendment that is required to comply with any
23 applicable law. This paragraph shall cease to apply
24 with respect to any plan year, effective as of the
25 first day of the plan year (or if later, the effective

1 date of the amendment) upon payment by the plan
2 sponsor of a contribution to the plan (in addition to
3 any contribution required under this section without
4 regard to this paragraph) in an amount equal to the
5 increase in the funding liability of the plan attrib-
6 utable to the plan amendment.

7 “(3) FUNDING RESTORATION PLAN.—The spon-
8 sor of a CSEC plan shall establish a written funding
9 restoration plan within 180 days of the receipt by
10 the plan sponsor of a certification from the plan ac-
11 tuary that the plan is in funding restoration status
12 for a plan year. Such funding restoration plan shall
13 consist of actions that are calculated, based on rea-
14 sonably anticipated experience and reasonable actu-
15 arial assumptions, to increase the plan’s funded per-
16 centage to 100 percent over a period that is not
17 longer than the greater of 7 years or the shortest
18 amount of time practicable. Such funding restora-
19 tion plan shall take into account contributions re-
20 quired under this section (without regard to this
21 paragraph). If a plan remains in funding restoration
22 status for 2 or more years, such funding restoration
23 plan shall be updated each year after the 1st such
24 year within 180 days of receipt by the plan sponsor
25 of a certification from the plan actuary that the plan

1 remains in funding restoration status for the plan
2 year.

3 “(4) ANNUAL CERTIFICATION BY PLAN ACTU-
4 ARY.—Not later than the 90th day of each plan year
5 of a CSEC plan, the plan actuary shall certify to the
6 plan sponsor whether or not the plan is in funding
7 restoration status for the plan year, based on the
8 plan’s funded percentage as of the beginning of the
9 plan year. For this purpose, the actuary may conclu-
10 sively rely on an estimate of—

11 “(A) the plan’s funding liability, based on
12 the funding liability of the plan for the pre-
13 ceding plan year and on reasonable actuarial es-
14 timates, assumptions, and methods, and

15 “(B) the amount of any contributions rea-
16 sonably anticipated to be made for the pre-
17 ceding plan year.

18 Contributions described in subparagraph (B) shall
19 be taken into account in determining the plan’s
20 funded percentage as of the beginning of the plan
21 year.

22 “(5) DEFINITIONS.—For purposes of this sub-
23 section—

24 “(A) FUNDING RESTORATION STATUS.—A
25 CSEC plan shall be treated as in funding res-

1 toration status for a plan year if the plan’s
2 funded percentage as of the beginning of such
3 plan year is less than 80 percent.

4 “(B) FUNDED PERCENTAGE.—The term
5 ‘funded percentage’ means the ratio (expressed
6 as a percentage) which—

7 “(i) the value of plan assets (as deter-
8 mined under subsection (e)(2)), bears to

9 “(ii) the plan’s funding liability.

10 “(C) FUNDING LIABILITY.—The term
11 ‘funding liability’ for a plan year means the
12 present value of all benefits accrued or earned
13 under the plan as of the beginning of the plan
14 year, based on the assumptions used by the
15 plan pursuant to this section, including the in-
16 terest rate described in subsection (b)(5)(A)
17 (without regard to subsection (b)(5)(B)).

18 “(D) SPREAD GAIN FUNDING METHOD.—
19 The term ‘spread gain funding method’ has the
20 meaning given such term under rules and forms
21 issued by the Secretary.

22 “(E) PLAN SPONSOR.—The term ‘plan
23 sponsor’ means, with respect to a CSEC plan,
24 the association, committee, joint board of trust-
25 ees, or other similar group of representatives of

1 the parties who establish or maintain the
2 plan.”.

3 (b) CSEC PLANS.—Section 413 of the Internal Rev-
4 enue Code of 1986 is amended by adding at the end the
5 following new subsection:

6 “(d) CSEC PLANS.—Notwithstanding any other pro-
7 vision of this section, in the case of a CSEC plan—

8 “(1) FUNDING.—The requirements of section
9 412 shall be determined as if all participants in the
10 plan were employed by a single employer.

11 “(2) APPLICATION OF PROVISIONS.—Para-
12 graphs (1), (2), (3), and (5) of subsection (c) shall
13 apply.

14 “(3) DEDUCTION LIMITATIONS.—Each applica-
15 ble limitation provided by section 404(a) shall be de-
16 termined as if all participants in the plan were em-
17 ployed by a single employer. The amounts contrib-
18 uted to or under the plan by each employer who
19 maintains the plan (for the portion of the taxable
20 year included within a plan year) shall be considered
21 not to exceed such applicable limitation if the antici-
22 pated employer contributions for such plan year of
23 all employers (determined in a reasonable manner
24 not inconsistent with regulations prescribed by the
25 Secretary) do not exceed such limitation. If such an-

1 ticipated contributions exceed such limitation, the
2 portion of each such employer's contributions which
3 is not deductible under section 404 shall be deter-
4 mined in accordance with regulations prescribed by
5 the Secretary.

6 “(4) ALLOCATIONS.—Allocations of amounts
7 under paragraph (3) and subsection (c)(5) among
8 the employers maintaining the plan shall not be in-
9 consistent with the regulations prescribed for this
10 purpose by the Secretary.”.

11 (c) SEPARATE RULES FOR CSEC PLANS.—

12 (1) IN GENERAL.—Paragraph (2) of section
13 412(a) of the Internal Revenue Code of 1986 is
14 amended by striking “and” at the end of subpara-
15 graph (B), by striking the period at the end of sub-
16 paragraph (C) and inserting “, and”, and by insert-
17 ing at the end thereof the following new subpara-
18 graph:

19 “(D) in the case of a CSEC plan, the em-
20 ployers make contributions to or under the plan
21 for any plan year which, in the aggregate, are
22 sufficient to ensure that the plan does not have
23 an accumulated funding deficiency under sec-
24 tion 433 as of the end of the plan year.”.

1 (2) CONFORMING AMENDMENTS.—Section 412
2 of such Code is amended—

3 (A) by striking “multiemployer plan” in
4 paragraph (A) of subsection (a)(2), in clause (i)
5 of subsection (c)(1)(B), the first place it ap-
6 pears in clause (i) of subsection (c)(1)(A), and
7 the last place it appears in paragraph (2) of
8 subsection (d), and inserting “multiemployer
9 plan or a CSEC plan”,

10 (B) by striking “430(j)” in paragraph (1)
11 of subsection (b) and inserting “430(j) or under
12 section 433(f)”,

13 (C)(i) by striking “and” at the end of
14 clause (i) of subsection (c)(1)(B),

15 (ii) by striking the period at the end of
16 clause (ii) of subsection (c)(1)(B) and inserting
17 “, and”, and

18 (iii) by inserting the following new clause
19 after clause (ii) of subsection (c)(1)(B):

20 “(iii) in the case of a CSEC plan, the
21 funding standard account shall be credited
22 under section 433(b)(3)(C) with the
23 amount of the waived funding deficiency
24 and such amount shall be amortized as re-
25 quired under section 433(b)(2)(C).”,

1 (D) by striking “under paragraph (1)” in
2 clause (i) of subsection (c)(4)(A) and inserting
3 “under paragraph (1) or for granting an exten-
4 sion under section 433(d)”,

5 (E) by striking “waiver under this sub-
6 section” in subparagraph (B) of subsection
7 (c)(4) and inserting “waiver under this sub-
8 section or an extension under 433(d)”,

9 (F) by striking “waiver or modification” in
10 subclause (I) of subsection (c)(4)(B)(i) and in-
11 sserting “waiver, modification, or extension”,

12 (G) by striking “waivers” in the heading of
13 subsection (c)(4)(C) and of clause (ii) of sub-
14 section (c)(4)(C) and inserting “waivers or ex-
15 tensions”,

16 (H) by striking “section 431(d)” in sub-
17 paragraph (A) of subsection (e)(7) and in para-
18 graph (2) of subsection (d) and inserting “sec-
19 tion 431(d) or section 433(d)”,

20 (I) by striking “and” at the end of sub-
21 clause (I) of subsection (c)(4)(C)(i) and insert-
22 ing “or the accumulated funding deficiency
23 under section 433, whichever is applicable”,

24 (J) by striking “430(e)(2),” in subclause
25 (II) of subsection (c)(4)(C)(i) and inserting

1 “430(e)(2) or 433(b)(2)(C), whichever is appli-
2 cable, and”,

3 (K) by adding immediately after subclause
4 (II) of subsection (c)(4)(C)(i) the following new
5 subclause:

6 “(III) the total amounts not paid
7 by reason of an extension in effect
8 under section 433(d),”, and

9 (L) by striking “for waivers of” in clause
10 (ii) of subsection (c)(4)(C) and inserting “for
11 waivers or extensions with respect to”.

12 (3) BENEFIT RESTRICTIONS.—

13 (A) IN GENERAL.—Paragraph (29) of sec-
14 tion 401(a) of such Code is amended by strik-
15 ing “multiemployer plan” and inserting “multi-
16 employer plan or a CSEC plan”.

17 (B) CONFORMING CHANGE.—Subsection
18 (a) of section 436 of such Code is amended by
19 striking “single-employer plan” and inserting
20 “single-employer plan (other than a CSEC
21 plan)”.

22 (4) BENEFIT INCREASES.—Subparagraph (C)
23 of section 401(a)(33) of such Code is amended by
24 striking “multiemployer plans” and inserting “multi-
25 employer plans or CSEC plans”.

1 (5) LIQUIDITY SHORTFALLS.—

2 (A) IN GENERAL.—Subparagraph (A) of
3 section 401(a)(32) of such Code is amended by
4 striking “430(j)(4)” each place it appears and
5 inserting “430(j)(4) or 433(f)(5)”.

6 (B) PERIOD OF SHORTFALL.—Subpara-
7 graph (C) of section 401(a)(32) of such Code is
8 amended by striking “430(j)(3) by reason of
9 section 430(j)(4)(A) thereof” and inserting
10 “430(j)(3) or 433(f) by reason of section
11 430(j)(4)(A) or 433(f)(5), respectively”.

12 (6) DEDUCTION LIMITS.—Subsection (o) of sec-
13 tion 404 of such Code is amended by adding at the
14 end the following new paragraph:

15 “(8) CSEC PLANS.—Solely for purposes of this
16 subsection, a CSEC plan shall be treated as though
17 section 430 applied to such plan and the minimum
18 required contribution for any plan year shall be the
19 amount described in section 412(a)(2)(D).”.

20 (7) SECTION 420.—Paragraph (5) of section
21 420(e) of such Code is amended by striking “section
22 430” each place it appears and inserting “sections
23 430 and 433”.

24 (8) COORDINATION WITH SECTION 4971.—

1 (A) Subsection (a) of section 4971 of such
2 Code is amended by striking “and” at the end
3 of paragraph (1), by striking the period at the
4 end of paragraph (2) and inserting “, and”,
5 and by adding at the end thereof the following
6 new paragraph:

7 “(3) in the case of a CSEC plan, 10 percent of
8 the CSEC accumulated funding deficiency as of the
9 end of the plan year ending with or within the tax-
10 able year.”.

11 (B) Subsection (b) of section 4971 of such
12 Code is amended—

13 (i) by striking “or” at the end of
14 paragraph (1), by adding “or” at the end
15 of paragraph (2), and by inserting imme-
16 diately after paragraph (2) the following
17 new paragraph:

18 “(3) a tax is imposed under subsection (a)(3)
19 on any CSEC accumulated funding deficiency and
20 the CSEC accumulated funding deficiency is not cor-
21 rected within the taxable period,” and

22 (ii) by striking “minimum required
23 contributions or accumulated funding defi-
24 ciency” and inserting “minimum required
25 contribution, accumulated funding defi-

1 ciency, or CSEC accumulated funding defi-
2 ciency”.

3 (C) Subsection (c) of section 4971 of such
4 Code is amended—

5 (i) by striking “accumulated funding
6 deficiency” each place it appears in para-
7 graph (2) and inserting “accumulated
8 funding deficiency or CSEC accumulated
9 funding deficiency”,

10 (ii) by striking “accumulated funding
11 deficiency or unpaid minimum required
12 contribution” each place it appears in
13 paragraph (3) and inserting “accumulated
14 funding deficiency, CSEC accumulated
15 funding deficiency, or unpaid minimum re-
16 quired contribution”, and

17 (iii) by adding at the end the fol-
18 lowing new paragraph:

19 “(5) CSEC ACCUMULATED FUNDING DEFICI-
20 CIENCY.—The term ‘CSEC accumulated funding de-
21 ficiency’ means the accumulated funding deficiency
22 determined under section 433.”.

23 (D) Paragraph (1) of section 4971(d) of
24 such Code is amended by striking “accumulated
25 funding deficiency or unpaid minimum required

1 contribution” and inserting “accumulated fund-
2 ing deficiency, CSEC accumulated funding defi-
3 ciency, or unpaid minimum required contribu-
4 tion”.

5 (E) Subsection (f) of section 4971 of such
6 Code is amended—

7 (i) by striking “430(j)(4)” in para-
8 graph (1) and inserting “430(j)(4) or
9 433(f)”,

10 (ii) by striking “430(j)” in paragraph
11 (1)(B) and inserting “430(j) or 433(f),
12 whichever is applicable”, and

13 (iii) by striking “412(m)(5)” in para-
14 graph (3)(A) and inserting “430(j) or
15 433(f), whichever is applicable”.

16 (9) EXCISE TAX ON FAILURE TO ADOPT FUND-
17 ING RESTORATION PLAN.—Section 4971 of such
18 Code is amended by redesignating subsection (h) as
19 subsection (i), and by inserting after subsection (g)
20 the following new subsection:

21 “(h) FAILURE OF A CSEC PLAN SPONSOR TO
22 ADOPT FUNDING RESTORATION PLAN.—

23 “(1) IN GENERAL.—In the case of a CSEC plan
24 that is in funding restoration status (within the
25 meaning of section 433(j)(5)(A)), there is hereby im-

1 posed a tax on the failure of such plan to adopt a
2 funding restoration plan within the time prescribed
3 under section 433(j)(3).

4 “(2) AMOUNT OF TAX.—The amount of the tax
5 imposed under paragraph (1) with respect to any
6 plan sponsor for any taxable year shall be the
7 amount equal to \$100 multiplied by the number of
8 days during the taxable year which are included in
9 the period beginning on the day following the close
10 of the 180-day period described in section 433(j)(3)
11 and ending on the day on which the funding restora-
12 tion plan is adopted.

13 “(3) WAIVER BY SECRETARY.—In the case of a
14 failure described in paragraph (1) which the Sec-
15 retary determines is due to reasonable cause and not
16 to willful neglect, the Secretary may waive a portion
17 or all of the tax imposed by such paragraph.

18 “(4) LIABILITY FOR TAX.—The tax imposed by
19 paragraph (1) shall be paid by the plan sponsor
20 (within the meaning of section 433(j)(5)(E)).”.

21 (10) REPORTING.—

22 (A) IN GENERAL.—Paragraph (2) of sec-
23 tion 6059(b) of such Code is amended by strik-
24 ing “430,” and inserting “430, the accumulated
25 funding deficiency under section 433,”.

1 (B) ASSUMPTIONS.—Subparagraph (B) of
2 section 6059(b)(3) of such Code is amended by
3 striking “430(h)(1) or 431(c)(3)” and inserting
4 “430(h)(1), 431(c)(3), or 433(c)(3)”.

5 **SEC. 203. ELECTION NOT TO BE TREATED AS A CSEC PLAN.**

6 (a) IN GENERAL.—Section 414(y) of the Internal
7 Revenue Code of 1986, as added by section 201, is amend-
8 ed by adding at the end the following new paragraph:

9 “(3) ELECTION.—

10 “(A) IN GENERAL.—If a plan falls within
11 the definition of a CSEC plan under this sub-
12 section (without regard to this paragraph), such
13 plan shall be a CSEC plan unless the plan
14 sponsor elects not later than the close of the
15 first plan year of the plan beginning after De-
16 cember 31, 2013, not to be treated as a CSEC
17 plan. An election under the preceding sentence
18 shall take effect for such plan year and, once
19 made, may be revoked only with the consent of
20 the Secretary.

21 “(B) SPECIAL RULE.—If a plan described
22 in subparagraph (A) is treated as a CSEC plan,
23 section 104 of the Pension Protection Act of
24 2006, as amended by the Preservation of Ac-
25 cess to Care for Medicare Beneficiaries and

1 Pension Relief Act of 2010, shall cease to apply
2 to such plan as of the first date as of which
3 such plan is treated as a CSEC plan.”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 this section shall apply as of the date of enactment of this
6 Act.

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