

113TH CONGRESS  
1ST SESSION

# S. 1302

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.

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## IN THE SENATE OF THE UNITED STATES

JULY 16 (legislative day, JULY 15), 2013

Mr. HARKIN (for himself, Mr. ROBERTS, Mrs. MURRAY, Ms. MURKOWSKI, and Mr. FRANKEN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## 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”.

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

- Sec. 1. Short title; table of contents.  
 Sec. 2. Congressional findings and declarations of policy.  
 Sec. 3. Definition of cooperative and small employer charity pension plans.  
 Sec. 4. Funding rules applicable to cooperative and small employer charity pension plans.  
 Sec. 5. Transparency.  
 Sec. 6. Elections.  
 Sec. 7. Pension insurance program modifications.  
 Sec. 8. Sponsor education and assistance.  
 Sec. 9. Effective date.

1 **SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATIONS OF**  
 2 **POLICY.**

3 Congress finds as follows:

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

8 (2) Many cooperative associations and charitable organizations are only able to provide their employees with defined benefit pension plans because  
 9 those organizations are able to pool their resources  
 10 using the multiple employer plan structure.  
 11

12 (3) The pension funding rules should encourage  
 13 cooperative associations and charities to continue to  
 14 provide their employees with pension benefits.  
 15

16 **SEC. 3. DEFINITION OF COOPERATIVE AND SMALL EMPLOYER CHARITY PENSION PLANS.**  
 17

18 (a) AMENDMENT TO ERISA.—Section 210 of the  
 19 Employee Retirement Income Security Act of 1974 (29

1 U.S.C. 1060) is amended by adding at the end the fol-  
2 lowing new subsection:

3 “(f) COOPERATIVE AND SMALL EMPLOYER CHARITY  
4 PENSION PLANS.—

5 “(1) IN GENERAL.—For purposes of this title,  
6 except as provided in this subsection, a CSEC plan  
7 is a defined benefit plan (other than a multiemployer  
8 plan)—

9 “(A) to which section 104 of the Pension  
10 Protection Act of 2006 applies, without regard  
11 to—

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

13 “(ii) the amendments to such section  
14 104 by section 202(b) of the Preservation  
15 of Access to Care for Medicare Bene-  
16 ficiaries and Pension Relief Act of 2010;  
17 and

18 “(iii) paragraph (3)(B); or

19 “(B) that, as of January 1, 2013, was  
20 maintained by more than one employer and all  
21 of the employers were organizations described  
22 in section 501(c)(3) of the Internal Revenue  
23 Code of 1986.

24 “(2) AGGREGATION.—All employers that are  
25 treated as a single employer under subsection (b) or

1 (c) of section 414 of the Internal Revenue Code of  
 2 1986 shall be treated as a single employer for pur-  
 3 poses of determining if a plan was maintained by  
 4 more than one employer under paragraph (1)(B).”.

5 (b) AMENDMENT TO CODE.—Section 414 of the In-  
 6 ternal Revenue Code of 1986 is amended by adding at the  
 7 end the following new subsection:

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

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

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

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

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

23 “(iii) paragraph (3)(B); or

24 “(B) that, as of January 1, 2013, was  
 25 maintained by more than one employer and all

1 of the employers were organizations described  
2 in section 501(c)(3).

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

8 **SEC. 4. FUNDING RULES APPLICABLE TO COOPERATIVE**  
9 **AND SMALL EMPLOYER CHARITY PENSION**  
10 **PLANS.**

11 (a) AMENDMENTS TO ERISA.—

12 (1) MINIMUM FUNDING STANDARDS UNDER  
13 ERISA.—Part 3 of title I of the Employee Retirement  
14 Income Security Act of 1974 (29 U.S.C. 1081  
15 et seq.) is amended by adding at the end the fol-  
16 lowing new section:

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

18 “(a) GENERAL RULE.—For purposes of section 302,  
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 302 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  
21 302 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 302 applies, over a period  
4 of 30 plan years,

5 “(iii) in the case of a plan that comes  
6 into existence on or after the first day of  
7 the first plan year beginning after Decem-  
8 ber 31, 2013, the unfunded past liability  
9 under the plan on the first day of the first  
10 plan year to which section 302 applies,  
11 over a period of 15 years,

12 “(iv) in the case of a plan that is sub-  
13 ject to section 303 for the last plan year  
14 beginning before January 1, 2014, the sum  
15 of—

16 “(I) the plan’s funding standard  
17 carryover balance and prefunding bal-  
18 ance (as such terms are defined in  
19 section 303(f)) as of the end of such  
20 plan year, and

21 “(II) the unfunded past service  
22 liability under the plan for the first  
23 plan year beginning after December  
24 31, 2013,  
25 over a period of 15 years,

1           “(v) separately, with respect to each  
2           plan year, the net increase (if any) in un-  
3           funded past service liability under the plan  
4           arising from plan amendments adopted in  
5           such year, over a period of 15 plan years,

6           “(vi) separately, with respect to each  
7           plan year, the net experience loss (if any)  
8           under the plan, over a period of 5 plan  
9           years, and

10           “(vii) separately, with respect to each  
11           plan year, the net loss (if any) resulting  
12           from changes in actuarial assumptions  
13           used under the plan, over a period of 10  
14           plan years,

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

20           “(D) the amount necessary to amortize in  
21           equal annual installments (until fully amor-  
22           tized) over a period of 5 plan years any amount  
23           credited to the funding standard account under  
24           paragraph (3)(D), and



1           “(E) the amount necessary to amortize in  
2           equal annual installments (until fully amor-  
3           tized) over a period of 20 years the contribu-  
4           tions which would be required to be made under  
5           the plan but for the provisions of section  
6           302(c)(7)(A)(i)(I) (as in effect on the day be-  
7           fore the enactment of the Pension Protection  
8           Act of 2006).

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

12                 “(A) the amount considered contributed by  
13                 the employer to or under the plan for the plan  
14                 year,

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

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

23                         “(ii) separately, with respect to each  
24                         plan year, the net experience gain (if any)

1 under the plan, over a period of 5 plan  
2 years, and

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

8 “(C) the amount of the waived funding de-  
9 ficiency (within the meaning of section  
10 302(c)(3)) for the plan year,

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

22 “(E) for the first plan year beginning after  
23 December 31, 2013, in the case of a plan that  
24 is subject to section 303 for the last plan year  
25 beginning before January 1, 2014, the sum of

1 the plan's funding standard carryover balance  
2 and prefunding balance (as such terms are de-  
3 fined in section 302(f)) as of the end of the last  
4 plan year beginning before January 1, 2014.

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

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

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

22 “(5) INTEREST.—

23 “(A) IN GENERAL.—Except as provided in  
24 subparagraph (B), the funding standard ac-  
25 count (and items therein) shall be charged or

1 credited (as determined under regulations pre-  
2 scribed by the Secretary of the Treasury) with  
3 interest at the appropriate rate consistent with  
4 the rate or rates of interest used under the plan  
5 to determine costs.

6 “(B) EXCEPTION.—The interest rate used  
7 for purposes of computing the amortization  
8 charge described in subsection (b)(2)(C) or for  
9 purposes of any arrangement under subsection  
10 (d) for any plan year shall be greater of (i) 150  
11 percent of the Federal mid-term rate (as in ef-  
12 fect under section 1274 of the Internal Revenue  
13 Code of 1986 for the 1st month of such plan  
14 year), or (ii) the rate of interest determined  
15 under subparagraph (A).

16 “(6) AMORTIZATION SCHEDULES IN EFFECT.—  
17 Amortization schedules for amounts described in  
18 paragraphs (2) and (3) that are in effect as of the  
19 last day of the last plan year beginning before Janu-  
20 ary 1, 2014, by reason of section 104 of the Pension  
21 Protection Act of 2006 shall remain in effect pursu-  
22 ant to their terms and this section, except that such  
23 amounts shall not be amortized again under this sec-  
24 tion. In the case of a plan that is subject to section  
25 303 for the last plan year beginning before January

1 1, 2014, any amortization schedules and bases for  
2 plan years beginning before such date shall be re-  
3 duced to zero.

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) or which, in the aggre-  
9                   gate, result in a total contribution equivalent to  
10                  that which would be determined if each such as-  
11                  sumption and method were reasonable, and

12                   “(B) which, in combination, offer the actu-  
13                   ary’s best estimate of anticipated experience  
14                   under the plan.

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

18                   “(A) a change in benefits under the Social  
19                   Security Act or in other retirement benefits cre-  
20                   ated under Federal or State law, or

21                   “(B) a change in the definition of the term  
22                   ‘wages’ under section 3121 of the Internal Rev-  
23                   enue Code of 1986 or a change in the amount  
24                   of such wages taken into account under regula-

1           tions prescribed for purposes of section  
2           401(a)(5) of such Code,  
3           results in an increase or decrease in accrued liability  
4           under a plan, such increase or decrease shall be  
5           treated as an experience loss or gain.

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

7                   “(A) FUNDING METHODS AVAILABLE.—All  
8                   funding methods available to CSEC plans under  
9                   section 302 (as in effect on the day before the  
10                  enactment of the Pension Protection Act of  
11                  2006) shall continue to be available under this  
12                  section.

13                   “(B) NOT AFFECTED BY CESSATION OF  
14                   BENEFIT ACCRUALS.—The availability of any  
15                   funding method, including all spread gain fund-  
16                   ing methods, shall not be affected by whether  
17                   benefit accruals under a plan have ceased. Ex-  
18                   cept as otherwise provided in subparagraph (C)  
19                   or in regulations prescribed by the Secretary of  
20                   the Treasury, if benefit accruals have ceased  
21                   under a plan, the spread gain funding methods  
22                   may be applied by amortizing over the average  
23                   expected future lives of all participants.

24                   “(C) MINIMUM AMOUNT.—In the case of a  
25                   plan amortizing over the average expected fu-

1           ture lives of all participants pursuant to sub-  
2           paragraph (B), such amortization amount for  
3           any plan year shall not be less than the sum  
4           of—

5                   “(i) the amount determined by amor-  
6                   tizing, as of the first year for which the  
7                   plan amortizes over the average future  
8                   lives of all participants, the entire un-  
9                   funded past service liability in equal in-  
10                  stallments over 15 years, and

11                  “(ii) the amount determined by amor-  
12                  tizing any increase or decrease in such un-  
13                  funded past service liability in any subse-  
14                  quent year, other than an increase or de-  
15                  crease attributable to contributions or ex-  
16                  pected experience, in equal installments  
17                  over 15 years.

18                  “(D) CHANGES.—If the funding method  
19                  for a plan is changed, the new funding method  
20                  shall become the funding method used to deter-  
21                  mine costs and liabilities under the plan only if  
22                  the change is approved by the Secretary of the  
23                  Treasury. The preceding sentence shall not  
24                  apply to any change made pursuant to, or per-  
25                  mitted by, subparagraph (B) if such change is



1 made for the first plan year beginning after De-  
2 cember 31, 2013. Any such change may be  
3 made without the approval of the Secretary of  
4 the Treasury. If the plan year for a plan is  
5 changed, the new plan year shall become the  
6 plan year for the plan only if the change is ap-  
7 proved by the Secretary of the Treasury.

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), (D), and (E) and (3)(B) of sub-  
18 section (b) which are required to be amortized  
19 shall be considered fully amortized for purposes  
20 of such 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)  
2 (other than a multiemployer plan) 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 provide  
12 adequate protection for participants under the plan and  
13 their beneficiaries and if such Secretary determines that  
14 the failure to permit such extension would result in—

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

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

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

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

1 plan year. Such account shall be credited and  
2 charged solely as provided in this subsection.

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

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

6 “(A) charged with the sum of—

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

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

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

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

23 “(3) SPECIAL RULES.—The alternative min-  
24 imum funding standard account (and items therein)  
25 shall be charged or credited with interest in the

1 manner provided under subsection (b)(5) with re-  
2 spect to the funding standard account.

3 “(f) QUARTERLY CONTRIBUTIONS REQUIRED.—

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

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

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

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

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

23 “(i) the required installment, over

24 “(ii) the amount (if any) of the in-  
25 stallment contributed to or under the plan

1 on or before the due date for the install-  
2 ment.

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

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

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

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

20 “(B) TIME FOR PAYMENT OF INSTALL-  
21 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.



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  
23                   paid in such installment is less than the liquid-  
24                   ity shortfall (whether or not such liquidity  
25                   shortfall exceeds the amount of such install-

1           ment required to be paid but for this para-  
2           graph).

3           “(B) PLANS TO WHICH PARAGRAPH AP-  
4           PLIES.—This paragraph shall apply to a CSEC  
5           plan other than a plan described in section  
6           302(1)(6)(A) (as in effect on the day before the  
7           enactment of the Pension Protection Act of  
8           2006) which—

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

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

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

19           “(D) LIMITATION ON INCREASE.—If the  
20           amount of any required installment is increased  
21           by reason of subparagraph (A), in no event  
22           shall such increase exceed the amount which,  
23           when added to prior installments for the plan  
24           year, is necessary to increase the funded cur-  
25           rent liability percentage (taking into account

1 the expected increase in current liability due to  
2 benefits accruing during the plan year) to 100  
3 percent.

4 “(E) DEFINITIONS.—For purposes of this  
5 paragraph:

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

14 “(ii) BASE AMOUNT.—

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

22 “(II) SPECIAL RULE.—If the  
23 amount determined under subclause  
24 (I) exceeds an amount equal to 2  
25 times the sum of the adjusted dis-

1                   bursements from the plan for the 36  
2                   months ending on the last day of the  
3                   quarter and an enrolled actuary cer-  
4                   tifies to the satisfaction of the Sec-  
5                   retary of the Treasury that such ex-  
6                   cess is the result of nonrecurring cir-  
7                   cumstances, the base amount with re-  
8                   spect to such quarter shall be deter-  
9                   mined without regard to amounts re-  
10                  lated to those nonrecurring cir-  
11                  cumstances.

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

18                  “(iv) ADJUSTED DISBURSEMENTS.—  
19                  The term ‘adjusted disbursements’ means  
20                  disbursements from the plan reduced by  
21                  the product of—

22                          “(I) the plan’s funded current li-  
23                          ability percentage for the plan year,  
24                          and

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

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

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

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

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

20                  “(A) FISCAL YEARS.—In applying this  
21                  subsection to a plan year beginning on any date  
22                  other than January 1, there shall be substituted  
23                  for the months specified in this subsection, the  
24                  months which correspond thereto.

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

5           “(g) IMPOSITION OF LIEN WHERE FAILURE TO  
6 MAKE REQUIRED CONTRIBUTIONS.—

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

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

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

21           then there shall be a lien in favor of the plan in the  
22           amount determined under paragraph (3) upon all  
23           property and rights to property, whether real or per-  
24           sonal, belonging to such person and any other per-

1 son who is a member of the same controlled group  
2 of which such person is a member.

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

11 “(3) AMOUNT OF LIEN.—For purposes of para-  
12 graph (1), the amount of the lien shall be equal to  
13 the aggregate unpaid balance of required install-  
14 ments and other payments required under this sec-  
15 tion (including interest)—

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

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

20 “(4) NOTICE OF FAILURE; LIEN.—

21 “(A) NOTICE OF FAILURE.—A person  
22 committing a failure described in paragraph (1)  
23 shall notify the Pension Benefit Guaranty Cor-  
24 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 the contributing sponsor (or any mem-



1 ber of the controlled group of the contributing spon-  
2 sor).

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) COMMISSIONERS’ STANDARD  
 20 TABLE.—In the case of plan years begin-  
 21 ning before the first plan year to which the  
 22 first tables prescribed under clause (ii)  
 23 apply, the mortality table used in deter-  
 24 mining current liability under this sub-  
 25 section shall be the table prescribed by the

1 Secretary of the Treasury which is based  
2 on the prevailing commissioners' standard  
3 table (described in section 807(d)(5)(A) of  
4 the Internal Revenue Code of 1986) used  
5 to determine reserves for group annuity  
6 contracts issued on January 1, 1993.

7 “(ii) SECRETARIAL AUTHORITY.—The  
8 Secretary of the Treasury may by regula-  
9 tion prescribe for plan years beginning  
10 after December 31, 1999, mortality tables  
11 to be used in determining current liability  
12 under this subsection. Such tables shall be  
13 based upon the actual experience of pen-  
14 sion plans and projected trends in such ex-  
15 perience. In prescribing such tables, the  
16 Secretary of the Treasury shall take into  
17 account results of available independent  
18 studies of mortality of individuals covered  
19 by pension plans.

20 “(iii) PERIODIC REVIEW.—The Sec-  
21 retary of the Treasury shall periodically (at  
22 least every 5 years) review any tables in ef-  
23 fect under this subsection and shall, to the  
24 extent the Secretary of the Treasury deter-  
25 mines necessary, by regulation update the

1 tables to reflect the actual experience of  
2 pension plans and projected trends in such  
3 experience.

4 “(C) SEPARATE MORTALITY TABLES FOR  
5 THE DISABLED.—Notwithstanding subpara-  
6 graph (B)—

7 “(i) IN GENERAL.—In the case of  
8 plan years beginning after December 31,  
9 1995, the Secretary of the Treasury shall  
10 establish mortality tables which may be  
11 used (in lieu of the tables under subpara-  
12 graph (B)) to determine current liability  
13 under this subsection for individuals who  
14 are entitled to benefits under the plan on  
15 account of disability. The Secretary of the  
16 Treasury shall establish separate tables for  
17 individuals whose disabilities occur in plan  
18 years beginning before January 1, 1995,  
19 and for individuals whose disabilities occur  
20 in plan years beginning on or after such  
21 date.

22 “(ii) SPECIAL RULE FOR DISABILITIES  
23 OCCURRING AFTER 1994.—In the case of  
24 disabilities occurring in plan years begin-  
25 ning after December 31, 1994, the tables

1 under clause (i) shall apply only with re-  
 2 spect to individuals described in such sub-  
 3 clause who are disabled within the meaning  
 4 of title II of the Social Security Act and  
 5 the regulations thereunder.

6 “(4) CERTAIN SERVICE DISREGARDED.—

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

13 “(B) APPLICABLE PERCENTAGE.—For  
 14 purposes of this subparagraph, the applicable  
 15 percentage shall be determined as follows:

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

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

20 “(i) has not accrued any other benefit  
 21 under any defined benefit plan (whether or

1 not terminated) maintained by the em-  
2 ployer or a member of the same controlled  
3 group of which the employer is a member,

4 “(ii) who first becomes a participant  
5 under the plan in a plan year beginning  
6 after December 31, 1987, and

7 “(iii) has years of service greater than  
8 the minimum years of service necessary for  
9 eligibility to participate in the plan.

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

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

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

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

21 “(j) TRANSITION.—The Secretary of the Treasury  
22 may prescribe such rules as are necessary or appropriate  
23 with respect to the transition of a CSEC plan from the  
24 application of section 303 to the application of this sec-  
25 tion.”.

1           (2) SPECIAL RULE.—Section 210(a) of the Em-  
2     ployee Retirement Income Security Act of 1974 (29  
3     U.S.C. 1060(a)) is amended by adding at the end  
4     the following new paragraph:

5           “(4) Notwithstanding any other provision of  
6     this section, in the case of a CSEC plan, the require-  
7     ments of section 302 shall be determined as if all  
8     participants in the plan were employed by a single  
9     employer.”.

10          (3) SEPARATE RULES FOR CSEC PLANS.—

11           (A) IN GENERAL.—Paragraph (2) of sec-  
12     tion 302(a) of the Employee Retirement Income  
13     Security Act of 1974 (29 U.S.C. 1082(a)) is  
14     amended by striking “and” at the end of sub-  
15     paragraph (B), by striking the period at the  
16     end of subparagraph (C) and inserting “, and”,  
17     and by inserting at the end thereof the fol-  
18     lowing new subparagraph:

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 306 as of the end of the plan year.”.

1 (B) CONFORMING AMENDMENTS.—Section  
2 302 of the Employee Retirement Income Secu-  
3 rity Act of 1974 (29 U.S.C. 1082) is amended  
4 by—

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

11 (ii) striking “303(j)” in paragraph (1)  
12 of subsection (b) and inserting “303(j) or  
13 under 306(f)”,

14 (iii)(I) striking “and” at the end of  
15 clause (i) of subsection (c)(1)(B),

16 (II) striking the period at the end of  
17 clause (ii) of subsection (c)(1)(B), and in-  
18 sserting “, and”, and

19 (III) inserting the following new  
20 clause after clause (ii) of subsection  
21 (c)(1)(B):

22 “(iii) in the case of a CSEC plan, the  
23 funding standard account shall be credited  
24 under section 306(b)(3)(C) with the  
25 amount of the waived funding deficiency



1 and such amount shall be amortized as re-  
2 quired under section 306(b)(2)(C).”,

3 (iv) striking “under paragraph (1)” in  
4 clause (i) of subsection (c)(4)(A) and in-  
5 serting “under paragraph (1) or for grant-  
6 ing an extension under section 306(d)”,

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

11 (vi) striking “waiver or modification”  
12 in subclause (I) of subsection (c)(4)(B)(i)  
13 and inserting “waiver, modification, or ex-  
14 tension”,

15 (vii) striking “waivers” in the heading  
16 of subsection (c)(4)(C) and of clause (ii) of  
17 subsection (c)(4)(C) and inserting “waivers  
18 or extensions”,

19 (viii) striking “304(d)” in subpara-  
20 graph (A) of subsection (c)(7) and in para-  
21 graph (2) of subsection (d) and inserting  
22 “section 304(d) or section 306(d)”,

23 (ix) striking “and” at the end of sub-  
24 clause (I) of subsection (c)(4)(C)(i) and  
25 adding “or the accumulated funding defi-

1                   ciency under section 306, whichever is ap-  
2                   plicable,”

3                   (x) striking “303(e)(2),” in subclause  
4                   (II) of subsection (c)(4)(C)(i) and inserting  
5                   “303(e)(2) or 306(b)(2)(C), whichever is  
6                   applicable, and”

7                   (xi) adding immediately after sub-  
8                   clause (II) of subsection (c)(4)(C)(i) the  
9                   following new subclause:

10                   “(III) the total amounts not paid  
11                   by reason of an extension in effect  
12                   under section 306(d),”

13                   (xii) striking “for waivers of” in  
14                   clause (ii) of subsection (c)(4)(C) and in-  
15                   serting “for waivers or extensions with re-  
16                   spect to”

17                   (xiii) striking “304(d)” in paragraph  
18                   (2) of subsection (d) and inserting “304(d)  
19                   or 306(d), whichever is applicable”, and

20                   (xiv) striking “single-employer plan”  
21                   in subparagraph (A) of subsection (a)(2)  
22                   and in clause (i) of subsection (c)(1)(B)  
23                   and inserting “single-employer plan (other  
24                   than a CSEC plan)”.

25                   (4) BENEFIT RESTRICTIONS.—

1           (A) IN GENERAL.—Subsection (g) of sec-  
2           tion 206 of the Employee Retirement Income  
3           Security Act of 1974 (29 U.S.C. 1056) is  
4           amended by adding at the end thereof the fol-  
5           lowing new paragraph:

6           “(12) CSEC PLANS.—This subsection shall not  
7           apply to a CSEC plan (as defined in section  
8           210(f)).”.

9           (B) EFFECTIVE DATE.—Any restriction  
10          under section 206(g) of the Employee Retire-  
11          ment Income Security Act of 1974 that is in ef-  
12          fect with respect to a CSEC plan as of the last  
13          day of the last plan year beginning before Jan-  
14          uary 1, 2014, shall cease to apply as of the first  
15          day of the following plan year.

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

21          (6) SECTION 103.—Subparagraph (B) of section  
22          103(d)(8) of the Employee Retirement Income Secu-  
23          rity Act of 1974 (29 U.S.C. 1023(d)(8)) is amended  
24          by striking “303(h) and 304(c)(3)” and inserting  
25          “303(h), 304(c)(3), and 306(c)(3)”.

1           (7) SECTION 4003.—Subparagraph (B) of sec-  
2           tion 4003(e)(1) of the Employee Retirement Income  
3           Security Act of 1974 (29 U.S.C. 1303(e)(1)) is  
4           amended by striking “303(k)(1)(A) and (B) of this  
5           Act or section 430(k)(1)(A) and (B) of the Internal  
6           Revenue Code of 1986” and inserting “303(k)(1)(A)  
7           and (B) or 306(g)(1)(A) and (B) of this Act or sec-  
8           tion 430(k)(1)(A) and (B) or 433(g)(1)(A) and (B)  
9           of the Internal Revenue Code of 1986”.

10           (8) SECTION 4010.—Paragraph (2) of section  
11           4010(b) of the Employee Retirement Income Secu-  
12           rity Act of 1974 (29 U.S.C. 1310(b)) is amended by  
13           striking “303(k)(1)(A) and (B) of this Act or sec-  
14           tion 430(k)(1)(A) and (B) of the Internal Revenue  
15           Code of 1986” and inserting “303(k)(1)(A) and (B)  
16           or 306(g)(1)(A) and (B) of this Act or section  
17           430(k)(1)(A) and (B) or 433(g)(1)(A) and (B) of  
18           the Internal Revenue Code of 1986”.

19           (9) SECTION 4071.—Section 4071 of the Em-  
20           ployee Retirement Income Security Act of 1974 (29  
21           U.S.C. 1371) is amended by striking “section  
22           303(k)(4)” and inserting “section 303(k)(4) or  
23           306(g)(4)”.

24           (b) AMENDMENTS TO CODE.—

1           (1) MINIMUM FUNDING STANDARDS UNDER  
2           THE INTERNAL REVENUE CODE.—Subpart A of part  
3           III of subchapter D of chapter 1 of subtitle A of the  
4           Internal Revenue Code of 1986 is amended by add-  
5           ing at the end the following new section:

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

7           “(a) GENERAL RULE.—For purposes of section 412,  
8           the term ‘accumulated funding deficiency’ for a CSEC  
9           plan means the excess of the total charges to the funding  
10          standard account for all plan years (beginning with the  
11          first plan year to which section 412 applies) over the total  
12          credits to such account for such years or, if less, the excess  
13          of the total charges to the alternative minimum funding  
14          standard account for such plan years over the total credits  
15          to such account for such years.

16          “(b) FUNDING STANDARD ACCOUNT.—

17                  “(1) ACCOUNT REQUIRED.—Each plan to which  
18                  this section applies shall establish and maintain a  
19                  funding standard account. Such account shall be  
20                  credited and charged solely as provided in this sec-  
21                  tion.

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

1           “(A) the normal cost of the plan for the  
2 plan year,

3           “(B) the amounts necessary to amortize in  
4 equal annual installments (until fully amor-  
5 tized)—

6                   “(i) in the case of a plan in existence  
7 on January 1, 1974, the unfunded past  
8 service liability under the plan on the first  
9 day of the first plan year to which section  
10 412 applies, over a period of 40 plan years,

11                   “(ii) in the case of a plan which comes  
12 into existence after January 1, 1974, but  
13 before the first day of the first plan year  
14 beginning after December 31, 2013, the  
15 unfunded past service liability under the  
16 plan on the first day of the first plan year  
17 to which section 412 applies, over a period  
18 of 30 plan years,

19                   “(iii) in the case of a plan that comes  
20 into existence on or after the first day of  
21 the first plan year beginning after Decem-  
22 ber 31, 2013, the unfunded past liability  
23 under the plan on the first day of the first  
24 plan year to which section 412 applies,  
25 over a period of 15 years,

1           “(iv) in the case of a plan that is sub-  
2           ject to section 430 for the last plan year  
3           beginning before January 1, 2014, the sum  
4           of—

5                   “(I) the plan’s funding standard  
6                   carryover balance and prefunding bal-  
7                   ance (as such terms are defined in  
8                   section 430(f)) as of the end of such  
9                   plan year, and

10                   “(II) the unfunded past service  
11                   liability under the plan for the first  
12                   plan year beginning after December  
13                   31, 2013,  
14           over a period of 15 years,

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

20                   “(vi) separately, with respect to each  
21                   plan year, the net experience loss (if any)  
22                   under the plan, over a period of 5 plan  
23                   years, and

24                   “(vii) separately, with respect to each  
25                   plan year, the net loss (if any) resulting

1 from changes in actuarial assumptions  
2 used under the plan, over a period of 10  
3 plan years,

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

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

14 “(E) the amount necessary to amortize in  
15 equal annual installments (until fully amor-  
16 tized) over a period of 20 years the contribu-  
17 tions which would be required to be made under  
18 the plan but for the provisions of section  
19 412(c)(7)(A)(i)(I) (as in effect on the day be-  
20 fore the enactment of the Pension Protection  
21 Act of 2006).

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



1           “(A) the amount considered contributed by  
2 the employer to or under the plan for the plan  
3 year,

4           “(B) the amount necessary to amortize in  
5 equal annual installments (until fully amor-  
6 tized)—

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

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

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

21           “(C) the amount of the waived funding de-  
22 ficiency (within the meaning of section  
23 412(c)(3)) for the plan year,

24           “(D) in the case of a plan year for which  
25 the accumulated funding deficiency is deter-

1           mined under the funding standard account if  
2           such plan year follows a plan year for which  
3           such deficiency was determined under the alter-  
4           native minimum funding standard, the excess  
5           (if any) of any debit balance in the funding  
6           standard account (determined without regard to  
7           this subparagraph) over any debit balance in  
8           the alternative minimum funding standard ac-  
9           count, and

10           “(E) for the first plan year beginning after  
11           December 31, 2013, in the case of a plan that  
12           is subject to section 430 for the last plan year  
13           beginning before January 1, 2014, the sum of  
14           the plan’s funding standard carryover balance  
15           and prefunding balance (as such terms are de-  
16           fined in section 430(f)) as of the end of the last  
17           plan year beginning before January 1, 2014.

18           “(4) COMBINING AND OFFSETTING AMOUNTS  
19           TO BE AMORTIZED.—Under regulations prescribed  
20           by the Secretary, amounts required to be amortized  
21           under paragraph (2) or paragraph (3), as the case  
22           may be—

23           “(A) may be combined into one amount  
24           under such paragraph to be amortized over a  
25           period determined on the basis of the remaining

1 amortization period for all items entering into  
2 such combined amount, and

3 “(B) may be offset against amounts re-  
4 quired to be amortized under the other such  
5 paragraph, with the resulting amount to be am-  
6 ortized over a period determined on the basis of  
7 the remaining amortization periods for all items  
8 entering into whichever of the two amounts  
9 being offset is the greater.

10 “(5) INTEREST.—

11 “(A) Except as provided in subparagraph  
12 (B), the funding standard account (and items  
13 therein) shall be charged or credited (as deter-  
14 mined under regulations prescribed by the Sec-  
15 retary) with interest at the appropriate rate  
16 consistent with the rate or rates of interest  
17 used under the plan to determine costs.

18 “(B) The interest rate used for purposes of  
19 computing the amortization charge described in  
20 subsection (b)(2)(C) or for purposes of any ar-  
21 rangement under subsection (d) for any plan  
22 year shall be greater of—

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

1                   “(ii) the rate of interest determined  
2                   under subparagraph (A).

3                   “(6) AMORTIZATION SCHEDULES IN EFFECT.—  
4                   Amortization schedules for amounts described in  
5                   paragraphs (2) and (3) that are in effect as of the  
6                   last day of the last plan year beginning before Janu-  
7                   ary 1, 2014, by reason of section 104 of the Pension  
8                   Protection Act of 2006 shall remain in effect pursu-  
9                   ant to their terms and this section, except that such  
10                  amounts shall not be amortized again under this sec-  
11                  tion. In the case of a plan that is subject to section  
12                  430 for the last plan year beginning before January  
13                  1, 2014, any amortization schedules and bases for  
14                  plan years beginning before such date shall be re-  
15                  duced to zero.

16                  “(c) SPECIAL RULES.—

17                  “(1) DETERMINATIONS TO BE MADE UNDER  
18                  FUNDING METHOD.—For purposes of this section,  
19                  normal costs, accrued liability, past service liabilities,  
20                  and experience gains and losses shall be determined  
21                  under the funding method used to determine costs  
22                  under the plan.

23                  “(2) VALUATION OF ASSETS.—

24                  “(A) IN GENERAL.—For purposes of this  
25                  section, the value of the plan’s assets shall be

1 determined on the basis of any reasonable actu-  
2 arial method of valuation which takes into ac-  
3 count fair market value and which is permitted  
4 under regulations prescribed by the Secretary.

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

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

17 “(A) each of which is reasonable (taking  
18 into account the experience of the plan and rea-  
19 sonable expectations) or which, in the aggre-  
20 gate, result in a total contribution equivalent to  
21 that which would be determined if each such as-  
22 sumption and method were reasonable, and

23 “(B) which, in combination, offer the actu-  
24 ary’s best estimate of anticipated experience  
25 under the plan.

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

4                   “(A) a change in benefits under the Social  
5           Security Act or in other retirement benefits cre-  
6           ated under Federal or State law, or

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

12          results in an increase or decrease in accrued liability  
13          under a plan, such increase or decrease shall be  
14          treated as an experience loss or gain.

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

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

22                   “(B) NOT AFFECTED BY CESSATION OF  
23          BENEFIT ACCRUALS.—The availability of any  
24          funding method, including all spread gain fund-  
25          ing methods, shall not be affected by whether

1 benefit accruals under a plan have ceased. Ex-  
2 cept as otherwise provided in subparagraph (C)  
3 or in regulations prescribed by the Secretary, if  
4 benefit accruals have ceased under a plan, the  
5 spread gain funding methods may be applied by  
6 amortizing over the average expected future  
7 lives of all participants.

8 “(C) MINIMUM AMOUNT.—In the case of a  
9 plan amortizing over the average expected fu-  
10 ture lives of all participants pursuant to sub-  
11 paragraph (B), such amortization amount for  
12 any plan year shall not be less than the sum  
13 of—

14 “(i) the amount determined by amor-  
15 tizing, as of the first year for which the  
16 plan amortizes over the average future  
17 lives of all participants, the entire un-  
18 funded past service liability in equal in-  
19 stallments over 15 years, and

20 “(ii) the amount determined by amor-  
21 tizing any increase or decrease in such un-  
22 funded past service liability in any subse-  
23 quent year, other than an increase or de-  
24 crease attributable to contributions or ex-

1           pected experience, in equal installments  
2           over 15 years.

3           “(D) CHANGES.—If the funding method  
4           for a plan is changed, the new funding method  
5           shall become the funding method used to deter-  
6           mine costs and liabilities under the plan only if  
7           the change is approved by the Secretary. The  
8           preceding sentence shall not apply to any  
9           change made pursuant to, or permitted by, sub-  
10          paragraph (B) if such change is made for the  
11          first plan year beginning after December 31,  
12          2013. Any such change may be made without  
13          the approval of the Secretary. If the plan year  
14          for a plan is changed, the new plan year shall  
15          become the plan year for the plan only if the  
16          change is approved by the Secretary.

17          “(6) FULL FUNDING.—If, as of the close of a  
18          plan year, a plan would (without regard to this para-  
19          graph) have an accumulated funding deficiency (de-  
20          termined without regard to the alternative minimum  
21          funding standard account permitted under sub-  
22          section (e)) in excess of the full funding limitation—

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



1           “(B) all amounts described in paragraphs  
2           (2)(B), (C), (D), and (E) and (3)(B) of sub-  
3           section (b) which are required to be amortized  
4           shall be considered fully amortized for purposes  
5           of such paragraphs.

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

9           “(A) the accrued liability (including nor-  
10          mal cost) under the plan (determined under the  
11          entry age normal funding method if such ac-  
12          crued liability cannot be directly calculated  
13          under the funding method used for the plan),  
14          over

15          “(B) the lesser of—

16                  “(i) the fair market value of the  
17                  plan’s assets, or

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

20          “(C) MINIMUM AMOUNT.—

21                  “(i) IN GENERAL.—In no event shall  
22                  the full-funding limitation determined  
23                  under subparagraph (A) be less than the  
24                  excess (if any) of—

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

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

10                   “(ii) ASSETS.—For purposes of clause  
11                   (i), assets shall not be reduced by any  
12                   credit balance in the funding standard ac-  
13                   count.

14                   “(8) ANNUAL VALUATION.—

15                   “(A) IN GENERAL.—For purposes of this  
16                   section, a determination of experience gains and  
17                   losses and a valuation of the plan’s liability  
18                   shall be made not less frequently than once  
19                   every year, except that such determination shall  
20                   be made more frequently to the extent required  
21                   in particular cases under regulations prescribed  
22                   by the Secretary.

23                   “(B) VALUATION DATE.—

24                   “(i) CURRENT YEAR.—Except as pro-  
25                   vided in clause (ii), the valuation referred

1 to in subparagraph (A) shall be made as of  
2 a date within the plan year to which the  
3 valuation refers or within one month prior  
4 to the beginning of such year.

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

13 “(iii) ADJUSTMENTS.—Information  
14 under clause (ii) shall, in accordance with  
15 regulations, be actuarially adjusted to re-  
16 flect significant differences in participants.

17 “(iv) LIMITATION.—A change in fund-  
18 ing method to use a prior year valuation,  
19 as provided in clause (ii), may not be made  
20 unless as of the valuation date within the  
21 prior plan year, the value of the assets of  
22 the plan are not less than 125 percent of  
23 the plan’s current liability.

24 “(9) TIME WHEN CERTAIN CONTRIBUTIONS  
25 DEEMED MADE.—For purposes of this section, any

1 contributions for a plan year made by an employer  
2 during the period—

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

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

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

8 “(10) ANTICIPATION OF BENEFIT INCREASES  
9 EFFECTIVE IN THE FUTURE.—In determining pro-  
10 jected benefits, the funding method of a collectively  
11 bargained CSEC plan described in section 413(a)  
12 (other than a multiemployer plan) shall anticipate  
13 benefit increases scheduled to take effect during the  
14 term of the collective bargaining agreement applica-  
15 ble to the plan.

16 “(d) EXTENSION OF AMORTIZATION PERIODS.—The  
17 period of years required to amortize any unfunded liability  
18 (described in any clause of subsection (b)(2)(B)) of any  
19 plan may be extended by the Secretary for a period of  
20 time (not in excess of 10 years) if such Secretary deter-  
21 mines that such extension would provide adequate protec-  
22 tion for participants under the plan and their beneficiaries  
23 and if such Secretary determines that the failure to permit  
24 such extension would result in—

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

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

5           “(e) ALTERNATIVE MINIMUM FUNDING STAND-  
6           ARD.—

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

14          “(2) CHARGES AND CREDITS TO ACCOUNT.—  
15          For a plan year the alternative minimum funding  
16          standard account shall be—

17                 “(A) charged with the sum of—

18                         “(i) the lesser of normal cost under  
19                         the funding method used under the plan or  
20                         normal cost determined under the unit  
21                         credit method,

22                         “(ii) the excess, if any, of the present  
23                         value of accrued benefits under the plan  
24                         over the fair market value of the assets,  
25                         and

1                   “(iii) an amount equal to the excess  
2                   (if any) of credits to the alternative min-  
3                   imum standard account for all prior plan  
4                   years over charges to such account for all  
5                   such years, and

6                   “(B) credited with the amount considered  
7                   contributed by the employer to or under the  
8                   plan for the plan year.

9                   “(3) SPECIAL RULES.—The alternative min-  
10                  imum funding standard account (and items therein)  
11                  shall be charged or credited with interest in the  
12                  manner provided under subsection (b)(5) with re-  
13                  spect to the funding standard account.

14                  “(f) QUARTERLY CONTRIBUTIONS REQUIRED.—

15                  “(1) IN GENERAL.—If a CSEC plan which has  
16                  a funded current liability percentage for the pre-  
17                  ceding plan year of less than 100 percent fails to  
18                  pay the full amount of a required installment for the  
19                  plan year, then the rate of interest charged to the  
20                  funding standard account under subsection (b)(5)  
21                  with respect to the amount of the underpayment for  
22                  the period of the underpayment shall be equal to the  
23                  greater of—

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

4           “(B) the rate of interest used under the  
5 plan in determining costs.

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

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

10                   “(i) the required installment, over

11                   “(ii) the amount (if any) of the in-  
12 stallment contributed to or under the plan  
13 on or before the due date for the install-  
14 ment.

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

22           “(C) ORDER OF CREDITING CONTRIBU-  
23 TIONS.—For purposes of subparagraph (A)(ii),  
24 contributions shall be credited against unpaid

1 required installments in the order in which such  
2 installments are required to be paid.

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

5 “(A) PAYABLE IN 4 INSTALLMENTS.—  
6 There shall be 4 required installments for each  
7 plan year.

8 “(B) TIME FOR PAYMENT OF INSTALL-  
9 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.

10 “(4) AMOUNT OF REQUIRED INSTALLMENT.—  
11 For purposes of this subsection—

12 “(A) IN GENERAL.—The amount of any  
13 required installment shall be 25 percent of the  
14 required annual payment.

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

18 “(i) 90 percent of the amount re-  
19 quired to be contributed to or under the  
20 plan by the employer for the plan year



1 under section 412 (without regard to any  
2 waiver under subsection (c) thereof), or

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

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

7 “(5) LIQUIDITY REQUIREMENT.—

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

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

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

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

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

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

19                  “(E) DEFINITIONS.—For purposes of this  
20                  paragraph:

21                  “(i) LIQUIDITY SHORTFALL.—The  
22                  term ‘liquidity shortfall’ means, with re-  
23                  spect to any required installment, an  
24                  amount equal to the excess (as of the last  
25                  day of the quarter for which such install-

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

4                   “(ii) BASE AMOUNT.—

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

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

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

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

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

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

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

22           “(vi) QUARTER.—The term ‘quarter’  
23           means, with respect to any required install-  
24           ment, the 3-month period preceding the

1 month in which the due date for such in-  
2 stallment occurs.

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

6 “(6) FISCAL YEARS AND SHORT YEARS.—

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

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

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

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

20 “(A) any person fails to make a required  
21 installment under subsection (f) or any other  
22 payment required under this section before the  
23 due date for such installment or other payment,  
24 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 the contributing sponsor (or any mem-  
12 ber of the controlled group of the contributing spon-  
13 sor).

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) COMMISSIONERS’ STANDARD  
7 TABLE.—In the case of plan years begin-  
8 ning before the first plan year to which the  
9 first tables prescribed under clause (ii)  
10 apply, the mortality table used in deter-  
11 mining current liability under this sub-  
12 section shall be the table prescribed by the  
13 Secretary which is based on the prevailing  
14 commissioners’ standard table (described  
15 in section 807(d)(5)(A)) used to determine  
16 reserves for group annuity contracts issued  
17 on January 1, 1993.

18           “(ii) SECRETARIAL AUTHORITY.—The  
19 Secretary may by regulation prescribe for  
20 plan years beginning after December 31,  
21 1999, mortality tables to be used in deter-  
22 mining current liability under this sub-  
23 section. 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 shall  
2           take into account results of available inde-  
3           pendent studies of mortality of individuals  
4           covered by pension plans.

5           “(iii) PERIODIC REVIEW.—The Sec-  
6           retary shall periodically (at least every 5  
7           years) review any tables in effect under  
8           this subsection and shall, to the extent the  
9           Secretary determines necessary, by regula-  
10          tion update the tables to reflect the actual  
11          experience of pension plans and projected  
12          trends in such experience.

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

16                 “(i) IN GENERAL.—In the case of  
17                 plan years beginning after December 31,  
18                 1995, the Secretary shall establish mor-  
19                 tality tables which may be used (in lieu of  
20                 the tables under subparagraph (B)) to de-  
21                 termine current liability under this sub-  
22                 section for individuals who are entitled to  
23                 benefits under the plan on account of dis-  
24                 ability. The Secretary shall establish sepa-  
25                 rate tables for individuals whose disabil-

1 ities occur in plan years beginning before  
2 January 1, 1995, and for individuals  
3 whose disabilities occur in plan years be-  
4 ginning on or after such date.

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

14 “(4) CERTAIN SERVICE DISREGARDED.—

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

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

<b>“If the years of participation are:</b>	<b>The applicable percentage is:</b>
1 .....	20

<b>“If the years of participation are:</b>	<b>The applicable percentage is:</b>
--------------------------------------------	--------------------------------------

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.

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) TRANSITION.—The Secretary may prescribe such  
7 rules as are necessary or appropriate with respect to the  
8 transition of a CSEC plan from the application of section  
9 430 to the application of this section.”.

10 (2) CSEC PLANS.—Section 413 of the Internal  
11 Revenue Code of 1986 is amended by adding at the  
12 end thereof the following new subsection:

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

15 “(1) FUNDING.—The requirements of section  
16 412 shall be determined as if all participants in the  
17 plan were employed by a single employer.

18 “(2) APPLICATION OF PROVISIONS.—Para-  
19 graphs (1), (2), (3), and (5) of subsection (c) shall  
20 apply.”.

21 (3) SEPARATE RULES FOR CSEC PLANS.—

22 (A) IN GENERAL.—Paragraph (2) of sec-  
23 tion 412(a) of the Internal Revenue Code of  
24 1986 is amended by striking “and” at the end  
25 of subparagraph (B), by striking the period at

1 the end of subparagraph (C) and inserting “,  
2 and”, and by inserting at the end thereof the  
3 following new subparagraph:

4 “(D) in the case of a CSEC plan, the em-  
5 ployers make contributions to or under the plan  
6 for any plan year which, in the aggregate, are  
7 sufficient to ensure that the plan does not have  
8 an accumulated funding deficiency under sec-  
9 tion 433 as of the end of the plan year.”.

10 (B) CONFORMING AMENDMENTS.—Section  
11 412 of the Internal Revenue Code of 1986 is  
12 amended by—

13 (i) striking “multiemployer plan” in  
14 paragraph (A) of subsection (a)(2), in  
15 clause (i) of subsection (c)(1)(B), in the  
16 first place it appears in clause (i) of sub-  
17 section (c)(1)(A), and in the last place it  
18 appears in paragraph (2) of subsection (d),  
19 and inserting “multiemployer plan or a  
20 CSEC plan”,

21 (ii) striking “430(j)” in paragraph (1)  
22 of subsection (b) and inserting “430(j) or  
23 under 433(f)”,

24 (iii)(I) striking “and” at the end of  
25 clause (i) of subsection (c)(1)(B),

1 (II) striking the period at the end of  
2 clause (ii) of subsection (c)(1)(B), and in-  
3 serting “, and”, and

4 (III) inserting the following new  
5 clause after clause (ii) of subsection  
6 (c)(1)(B):

7 “(iii) in the case of a CSEC plan, the  
8 funding standard account shall be credited  
9 under section 433(b)(3)(C) with the  
10 amount of the waived funding deficiency  
11 and such amount shall be amortized as re-  
12 quired under section 433(b)(2)(C).”,

13 (iv) striking “under paragraph (1)” in  
14 clause (i) of subsection (c)(4)(A) and in-  
15 serting “under paragraph (1) or for grant-  
16 ing an extension under section 433(d)”,

17 (v) striking “waiver under this sub-  
18 section” in subparagraph (B) of subsection  
19 (c)(4) and inserting “waiver under this  
20 subsection or an extension under 433(d)”,

21 (vi) striking “waiver or modification”  
22 in subclause (I) of subsection (c)(4)(B)(i)  
23 and inserting “waiver, modification, or ex-  
24 tension”,



1 (vii) striking “waivers” in the heading  
2 of subsection (c)(4)(C) and of clause (ii) of  
3 subsection (c)(4)(C) and inserting “waivers  
4 or extensions”,

5 (viii) striking “431(d)” in subpara-  
6 graph (A) of subsection (c)(7) and in para-  
7 graph (2) of subsection (d) and inserting  
8 “section 431(d) or section 433(d)”,

9 (ix) striking “and” at the end of sub-  
10 clause (I) of subsection (c)(4)(C)(i) and in-  
11 sserting “or the accumulated funding defi-  
12 ciency under section 433, whichever is ap-  
13 plicable,”,

14 (x) striking “430(e)(2),” in subclause  
15 (II) of subsection (c)(4)(C)(i) and inserting  
16 “430(e)(2) or 433(b)(2)(C), whichever is  
17 applicable, and”,

18 (xi) adding immediately after sub-  
19 clause (II) of subsection (c)(4)(C)(i) the  
20 following new subclause:

21 “(III) the total amounts not paid  
22 by reason of an extension in effect  
23 under section 433(d),”,

24 (xii) striking “for waivers of” in  
25 clause (ii) of subsection (c)(4)(C) and in-

1           serting “for waivers or extensions with re-  
2           spect to”, and

3                   (xiii) striking “431(d)” in paragraph  
4                   (2) of subsection (d) and inserting “431(d)  
5                   or 433(d), whichever is applicable”.

6           (4) BENEFIT RESTRICTIONS.—

7                   (A) IN GENERAL.—Paragraph (29) of sec-  
8                   tion 401(a) of the Internal Revenue Code of  
9                   1986 is amended by striking “multiemployer  
10                   plan” and inserting “multiemployer plan or a  
11                   CSEC plan”.

12                   (B) CONFORMING CHANGE.—Subsection  
13                   (a) of section 436 of the Internal Revenue Code  
14                   of 1986 is amended by striking “single-em-  
15                   ployer plan” and inserting “single-employer  
16                   plan (other than a CSEC plan)”.

17                   (C) EFFECTIVE DATE.—Any restriction  
18                   under sections 401(a)(29) and 436 of the Inter-  
19                   nal Revenue Code of 1986 that is in effect with  
20                   respect to a CSEC plan as of the last day of  
21                   the last plan year beginning before January 1,  
22                   2014, shall cease to apply as of the first day of  
23                   the following plan year.

24                   (5) BENEFIT INCREASES.—Subparagraph (C)  
25                   of section 401(a)(33) of the Internal Revenue Code

1 of 1986 is amended by striking “multiemployer  
2 plans” and inserting “multiemployer plans or CSEC  
3 plans”.

4 **SEC. 5. 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.—

12 “(i) IN GENERAL.—In the case of a  
13 CSEC plan, each notice under paragraph  
14 (1) shall include—

15 “(I) a statement that different  
16 rules apply to CSEC plans than apply  
17 to single-employer plans,

18 “(II) for the first 2 plan years  
19 beginning after December 31, 2013, a  
20 statement that, as a result of changes  
21 in the law made by the Cooperative  
22 and Small Employer Charity Pension  
23 Flexibility Act, the contributions to  
24 the plan may have changed, and

1                   “(III) for the first 2 plan years  
2                   beginning after December 31, 2013, a  
3                   statement that participants and par-  
4                   ticipating employers may request a  
5                   table which shows (determined both  
6                   with and without regard to such dif-  
7                   ferent rules) the required minimum  
8                   contributions to the plan for the appli-  
9                   cable plan year and each of the 2 pre-  
10                  ceding plan years.

11                  “(ii) APPLICABLE PLAN YEAR.—For  
12                  purposes of this subparagraph, the term  
13                  ‘applicable plan year’ means any plan year  
14                  beginning after December 31, 2013, for  
15                  which—

16                         “(I) the plan has a funding  
17                         shortfall (as defined in section  
18                         303(c)(4)) greater than \$1,000,000,  
19                         and

20                         “(II) the plan had 50 or more  
21                         participants on any day during the  
22                         preceding plan year.

23                  For purposes of any determination under  
24                  subclause (II), the aggregation rule under

1 the last sentence of section 303(g)(2)(B)  
2 shall apply.

3 “(iii) SPECIAL RULE FOR PLAN YEARS  
4 BEGINNING BEFORE 2014.—In the case of  
5 a preceding plan year referred to in clause  
6 (i)(III) which begins before January 1,  
7 2014, the information described in such  
8 clause shall be provided only without re-  
9 gard to the different rules applicable to  
10 CSEC plans.”.

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

18 (b) NOTICE OF FAILURE TO MEET MINIMUM FUND-  
19 ING STANDARDS.—

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

24 (2) DEFINITIONS.—Paragraph (3) of section  
25 101(d) of the Employee Retirement Income Security

1 Act of 1974 (21 U.S.C. 1021(d)) is amended by  
2 striking “303(j)” and inserting “303(j) or 306(f),  
3 whichever is applicable”.

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

8 “(g) ADDITIONAL INFORMATION WITH RESPECT TO  
9 CSEC PLANS.—With respect to any CSEC plan, an an-  
10 nual report under this section for a plan year shall include  
11 a list of participating employers and a good faith estimate  
12 of the percentage of total contributions made by such par-  
13 ticipating employers during the plan year.”.

14 **SEC. 6. ELECTIONS.**

15 (a) ELECTION NOT TO BE TREATED AS A CSEC  
16 PLAN.—

17 (1) AMENDMENT TO ERISA.—Subsection (f) of  
18 section 210 of the Employee Retirement Income Se-  
19 curity Act of 1974, as added by section 3, is amend-  
20 ed by adding at the end the following new para-  
21 graph:

22 “(3) ELECTION.—

23 “(A) IN GENERAL.—If a plan falls within  
24 the definition of a CSEC plan under this sub-  
25 section (without regard to this paragraph), such

1 plan shall be a CSEC plan unless the plan  
2 sponsor elects not later than the close of the  
3 first plan year of the plan beginning after De-  
4 cember 31, 2013, not to be treated as a CSEC  
5 plan. An election under the preceding sentence  
6 shall take effect for such plan year and, once  
7 made, may be revoked only with the consent of  
8 the Secretary of the Treasury.

9 “(B) SPECIAL RULE.—If a plan described  
10 in subparagraph (A) is treated as a CSEC plan,  
11 section 104 of the Pension Protection Act of  
12 2006, as amended by the Preservation of Ac-  
13 cess to Care for Medicare Beneficiaries and  
14 Pension Relief Act of 2010, shall cease to apply  
15 to such plan as of the first date as of which  
16 such plan is treated as a CSEC plan.”.

17 (2) AMENDMENT TO THE CODE.—Section  
18 414(y) of the Internal Revenue Code of 1986, as  
19 added by section 3, is amended by adding at the end  
20 the following new paragraph:

21 “(3) ELECTION.—

22 “(A) IN GENERAL.—If a plan falls within  
23 the definition of a CSEC plan under this sub-  
24 section (without regard to this paragraph), such  
25 plan shall be a CSEC plan unless the plan

1 sponsor elects not later than the close of the  
2 first plan year of the plan beginning after De-  
3 cember 31, 2013, not to be treated as a CSEC  
4 plan. An election under the preceding sentence  
5 shall take effect for such plan year and, once  
6 made, may be revoked only with the consent of  
7 the Secretary.

8 “(B) SPECIAL RULE.—If a plan described  
9 in subparagraph (A) is treated as a CSEC plan,  
10 section 104 of the Pension Protection Act of  
11 2006, as amended by the Preservation of Ac-  
12 cess to Care for Medicare Beneficiaries and  
13 Pension Relief Act of 2010, shall cease to apply  
14 to such plan as of the first date as of which  
15 such plan is treated as a CSEC plan.”.

16 (b) ELECTION TO CEASE TO BE TREATED AS AN  
17 ELIGIBLE CHARITY PLAN.—

18 (1) IN GENERAL.—Subsection (d) of section  
19 104 of the Pension Protection Act of 2006, as added  
20 by section 202 of the Preservation of Access to Care  
21 for Medicare Beneficiaries and Pension Relief Act of  
22 2010, is amended by—

23 (A) striking “For purposes of” and insert-  
24 ing “(1) IN GENERAL.—For purposes of”, and

25 (B) adding at the end the following:



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

10           “(3) ELECTION TO USE FUNDING OPTIONS  
11           AVAILABLE TO OTHER PLAN SPONSORS.—

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

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

1                   “(i) an 11-year shortfall amortization  
2                   base,

3                   “(ii) a 12-year shortfall amortization  
4                   base, and

5                   “(iii) a 7-year shortfall amortization  
6                   base.

7                   “(C) Under the rules described in this sub-  
8                   paragraph, section 303(c)(2)(A) and (B) of the  
9                   Employee Retirement Income Security Act of  
10                  1974, and section 430(c)(2)(A) and (B) of the  
11                  Internal Revenue Code of 1986 shall be applied  
12                  by—

13                  “(i) in the case of an 11-year shortfall  
14                  amortization base, substituting ‘11-plan-  
15                  year period’ for ‘7-plan-year period’ wher-  
16                  ever such phrase appears, and

17                  “(ii) in the case of a 12-year shortfall  
18                  amortization base, substituting ‘12-plan-  
19                  year period’ for ‘7-plan-year period’ wher-  
20                  ever such phrase appears.

21                  “(D) Under the rules described in this sub-  
22                  paragraph, section 303(c)(7) of the Employee  
23                  Retirement Income Security Act of 1974, and  
24                  section 430(c)(7) of the Internal Revenue Code  
25                  of 1986 shall apply to a plan for which an elec-

1           tion has been made under subparagraph (A).  
2           Such provisions shall apply in the following  
3           manner:

4                   “(i) The first plan year beginning  
5                   after December 31, 2013, shall be treated  
6                   as an election year, and no other plan  
7                   years shall be so treated.

8                   “(ii) All references in section  
9                   303(c)(7) of such Act and section  
10                  430(c)(7) of such Code to ‘February 28,  
11                  2010’ or ‘March 1, 2010’ shall be treated  
12                  as references to ‘February 28, 2013’ or  
13                  ‘March 1, 2013’, respectively.

14                  “(E) For purposes of this paragraph, the  
15                  11-year amortization base is an amount, deter-  
16                  mined for the first plan year beginning after  
17                  December 31, 2013, equal to the unamortized  
18                  principal amount of the shortfall amortization  
19                  base (as defined in section 303(c)(3) of the Em-  
20                  ployee Retirement Income Security Act of 1974  
21                  and section 430(c)(3) of the Internal Revenue  
22                  Code of 1986) that would have applied to the  
23                  plan for the first plan beginning after Decem-  
24                  ber 31, 2009, if—

1           “(i) the plan had never been an eligi-  
2 ble charity plan,

3           “(ii) the plan sponsor had made the  
4 election described in section  
5 303(c)(2)(D)(i) of the Employee Retirement  
6 Income Security Act of 1974 and in  
7 section 430(c)(2)(D)(i) of the Internal  
8 Revenue Code of 1986 to have section  
9 303(c)(2)(D)(i) of such Act and section  
10 430(c)(2)(D)(iii) of such Code apply with  
11 respect to the shortfall amortization base  
12 for the first plan year beginning after De-  
13 cember 31, 2009, and

14           “(iii) no event had occurred under  
15 paragraph (6) or (7) of section 303(c) of  
16 such Act or paragraph (6) or (7) of section  
17 430(c) of such Code that, as of the first  
18 day of the first plan year beginning after  
19 December 31, 2013, would have modified  
20 the shortfall amortization base or the  
21 shortfall amortization installments with re-  
22 spect to the first plan year beginning after  
23 December 31, 2009.

24           “(F) For purposes of this paragraph, the  
25 12-year amortization base is an amount, deter-

1           mined for the first plan year beginning after  
2           December 31, 2013, equal to the unamortized  
3           principal amount of the shortfall amortization  
4           base (as defined in section 303(c)(3) of the Em-  
5           ployee Retirement Income Security Act of 1974  
6           and section 430(c)(3) of the Internal Revenue  
7           Code of 1986) that would have applied to the  
8           plan for the first plan beginning after Decem-  
9           ber 31, 2010, if—

10                   “(i) the plan had never been an eligi-  
11                   ble charity plan,

12                   “(ii) the plan sponsor had made the  
13                   election       described       in       section  
14                   303(c)(2)(D)(i) of the Employee Retire-  
15                   ment Income Security Act of 1974 and in  
16                   section 430(c)(2)(D)(i) of the Internal  
17                   Revenue Code of 1986 to have section  
18                   303(c)(2)(D)(i) of such Act and section  
19                   430(c)(2)(D)(iii) of such Code apply with  
20                   respect to the shortfall amortization base  
21                   for the first plan year beginning after De-  
22                   cember 31, 2010, and

23                   “(iii) no event had occurred under  
24                   paragraph (6) or (7) of section 303(c) of  
25                   such Act or paragraph (6) or (7) of section

1 430(c) of such Code that, as of the first  
2 day of the first plan year beginning after  
3 December 31, 2013, would have modified  
4 the shortfall amortization base or the  
5 shortfall amortization installments with re-  
6 spect to the first plan year beginning after  
7 December 31, 2010.

8 “(G) For purposes of this paragraph, the  
9 7-year shortfall amortization base is an amount,  
10 determined for the first plan year beginning  
11 after December 31, 2013, equal to—

12 “(i) the shortfall amortization base for  
13 the first plan year beginning after Decem-  
14 ber 31, 2013, without regard to this para-  
15 graph, minus

16 “(ii) the sum of the 11-year shortfall  
17 amortization base and the 12-year shortfall  
18 amortization base.”.

19 (c) DEEMED ELECTION.—For purposes of sections  
20 4(b)(2) and 4021(b)(3) of the Employee Retirement In-  
21 come Security Act of 1974, and for all other purposes,  
22 a plan shall be deemed to have made an irrevocable elec-  
23 tion under section 410(d) of the Internal Revenue Code  
24 of 1986 if—

1           (1) the plan was established before January 1,  
2           2014;

3           (2) the plan falls within the definition of a  
4           CSEC plan;

5           (3) the plan sponsor does not make an election  
6           under section 210(f)(3)(B)(i) of the Employee Re-  
7           tirement Income Security Act of 1974 and section  
8           414(y)(3)(B)(i) of the Internal Revenue Code of  
9           1986, as added by this Act; and

10          (4) the plan, plan sponsor, administrator, or fi-  
11          duciary remits one or more premium payments for  
12          the plan to the Pension Benefit Guaranty Corpora-  
13          tion for a plan year beginning after December 31,  
14          2013.

15          (d) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply as of the date of enactment of this  
17 Act.

18 **SEC. 7. PENSION INSURANCE PROGRAM MODIFICATIONS.**

19          (a) FLAT-RATE PREMIUM.—Subparagraph (A) of  
20 section 4006(a)(3) of the Employee Retirement Income  
21 Security Act of 1974 (29 U.S.C. 1306(a)(3)) is amend-  
22 ed—

23                 (1) in clause (i)—

24                         (A) by striking “in the case of a single-em-  
25                         ployer plan” and inserting “except as provided

1 in clause (vi), in the case of a single-employer  
2 plan”; and

3 (B) in subclause (III), by striking the pe-  
4 riod and inserting a comma;

5 (2) in clause (iv), by striking “or” at the end;

6 (3) in clause (v), by striking the period at the  
7 end and inserting “, or”; and

8 (4) by adding at the end thereof the following  
9 new clause:

10 “(vi) in the case of a CSEC plan (as  
11 defined in section 210(f)), an amount for  
12 each individual who is a participant in  
13 such plan during the plan year equal to the  
14 sum of the additional premium (if any) de-  
15 scribed under subparagraph (K) and  
16 \$42.”.

17 (b) VARIABLE-RATE PREMIUM.—Paragraph (3) of  
18 section 4006(a) of such Act (29 U.S.C. 1306(a)) is  
19 amended by adding at the end the following:

20 “(K)(i) The additional premium deter-  
21 mined under this subparagraph with respect to  
22 any plan for any plan year—

23 “(I) shall be an amount equal to the  
24 amount determined under clause (ii) di-  
25 vided by the number of participants in



1           such plan as of the close of the preceding  
2           year; and

3           “(II) in the case of plan years begin-  
4           ning in a calendar year after 2013, shall  
5           not exceed the dollar amount described in  
6           subparagraph (E)(i)(II) (without the appli-  
7           cation of subparagraph (J)).

8           “(ii) The amount determined under this  
9           clause for any plan shall be an amount equal to  
10          \$9.00 for each \$1,000 (or fraction thereof) of  
11          unfunded vested benefits under the plan as of  
12          the close of the preceding plan year. For this  
13          purpose, the term ‘unfunded vested benefits’  
14          shall have the meaning given such term under  
15          clauses (iii) and (iv) of subparagraph (E).”.

16       (c) STUDY OF CSEC PLANS.—

17           (1) IN GENERAL.—The Pension Benefit Guar-  
18          anty Corporation shall conduct a study to determine  
19          if there is empirical evidence to support modifying  
20          the premium structure under section 4006(a)(3) of  
21          the Employee Retirement Income Security Act of  
22          1974 (29 U.S.C. 1306(a)(3)(A)) for CSEC plans.

23           (2) DATA.—The study under paragraph (1)  
24          shall include data with respect to—

1           (A) the portion of the Pension Benefit  
2           Guaranty Corporation's total liabilities that are  
3           attributable to CSEC plans;

4           (B) the ratio of such portion to the total  
5           of the funding targets of CSEC plans; and

6           (C) with respect to single-employer plans  
7           other than CSEC plans, the ratio of—

8                   (i) the portion of the Pension Benefit  
9                   Guaranty Corporation's total liabilities  
10                  that are attributable to such plans, to

11                   (ii) the total of the funding targets of  
12                  such plans.

13           (3) ESTIMATES.—In carrying out paragraph  
14           (2), the Pension Benefit Guaranty Corporation shall  
15           make such reasonable estimates as are necessary or  
16           appropriate in providing the data described in such  
17           paragraph.

18           (4) REPORT.—The Pension Benefit Guaranty  
19           Corporation shall report the results of the study con-  
20           ducted under paragraph (1), together with any rec-  
21           ommendations for legislative changes, to the Com-  
22           mittee on Health, Education, Labor, and Pensions  
23           of the Senate and the Committee on Education and  
24           the Workforce of the House of Representatives.

1           (5) PARTICIPANT AND PLAN SPONSOR ADVOCATE.—The report described in paragraph (4) shall  
 2 include a section prepared by the Participant and  
 3 Plan Sponsor Advocate of the Pension Benefit Guaranty Corporation that includes a statement setting  
 4 forth the position of such Participant and Plan  
 5 Sponsor Advocate on the process underlying the  
 6 study and the conclusions set forth in the report.  
 7

8           (6) DEFINITIONS.—In this section—

9                   (A) the term “CSEC plan” has the mean-  
 10                   ing given such term in section 210 of the Em-  
 11                   ployee Retirement Income Security Act of 1974  
 12                   (as added by section 3); and  
 13

14                   (B) the term “funding target” has the  
 15                   meaning given that term in section 303(d)(1) of  
 16                   such Act (29 U.S.C. 1083(d)(1)).

17 **SEC. 8. SPONSOR EDUCATION AND ASSISTANCE.**

18           (a) DEFINITION.—In this section, the term “CSEC  
 19 plan” has the meaning given that term in subsection (f)(1)  
 20 of section 210 of the Employee Retirement Income Secu-  
 21 rity Act of 1974 (as added by this Act).

22           (b) EDUCATION.—Not later than 6 months after the  
 23 date of the enactment of this Act, the Pension Benefit  
 24 Guaranty Corporation shall take reasonable steps to make  
 25 the sponsors of existing CSEC plans aware of—

1           (1) the changes to the Employee Retirement In-  
2           come Security Act of 1974 made by this Act; and

3           (2) the help and assistance available through  
4           the Participant and Plan Sponsor Advocate estab-  
5           lished under section 4004 of such Act (29 U.S.C.  
6           1304).

7 **SEC. 9. EFFECTIVE DATE.**

8           Unless otherwise specified in this Act, the provisions  
9           of this Act shall apply to years beginning after December  
10          31, 2013.

○