

Calendar No. 230113TH 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.

IN THE SENATE OF THE UNITED STATES

JULY 16 (legislative day, JULY 15), 2013

Mr. HARKIN (for himself, Mr. ROBERTS, Mrs. MURRAY, Ms. MURKOWSKI, Mr. FRANKEN, Mrs. MCCASKILL, Mr. BLUNT, Mr. MORAN, Mrs. HAGAN, Mr. NELSON, Mr. JOHNSON of South Dakota, Mr. HEINRICH, Mr. GRASSLEY, Mr. INHOFE, Mrs. SHAHEEN, Mr. BOOZMAN, Mr. DONNELLY, Mr. ISAKSON, Mr. ENZI, Mr. CHAMBLISS, Mr. JOHANNES, Mr. COCHRAN, Mr. KIRK, Mr. WICKER, Mr. DURBIN, Mr. BARRASSO, Mr. WHITEHOUSE, Ms. MIKULSKI, Ms. STABENOW, Mr. PRYOR, Mr. THUNE, Mrs. FISCHER, Mr. UDALL of New Mexico, Ms. WARREN, and Mr. MANCHIN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

OCTOBER 30, 2013

Reported by Mr. HARKIN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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.

9 **SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATIONS OF**
 10 **POLICY.**

11 Congress finds as follows:

12 (1) Defined benefit pension plans are a cost-ef-
 13 fective way for cooperative associations and charities
 14 to provide their employees with economic security in
 15 retirement.

16 (2) Many cooperative associations and chari-
 17 table organizations are only able to provide their em-
 18 ployees with defined benefit pension plans because
 19 those organizations are able to pool their resources
 20 using the multiple employer plan structure.

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

4 **SEC. 3. DEFINITION OF COOPERATIVE AND SMALL EM-**
 5 ****EMPLOYER CHARITY PENSION PLANS.****

6 (a) **AMENDMENT TO ERISA.**—Section 210 of the
 7 Employee Retirement Income Security Act of 1974 (29
 8 U.S.C. 1060) is amended by adding at the end the fol-
 9 lowing new subsection:

10 “(f) **COOPERATIVE AND SMALL EMPLOYER CHARITY**
 11 **PENSION PLANS.**—

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

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

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

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

25 “(iii) paragraph (3)(B); or

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

6 “(2) AGGREGATION.—All employers that are
 7 treated as a single employer under subsection (b) or
 8 (c) of section 414 of the Internal Revenue Code of
 9 1986 shall be treated as a single employer for pur-
 10 poses of determining if a plan was maintained by
 11 more than one employer under paragraph (1)(B).”.

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

15 “(y) COOPERATIVE AND SMALL EMPLOYER CLARITY
 16 PENSION PLANS.—

17 “(1) IN GENERAL.—For purposes of this title,
 18 except as provided in this subsection, a CSEC plan
 19 is a defined benefit plan (other than a multiemployer
 20 plan)—

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

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

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

6 “(iii) paragraph (3)(B); or

7 “(B) that, as of January 1, 2013, was
8 maintained by more than one employer and all
9 of the employers were organizations described
10 in section 501(c)(3).

11 “(2) AGGREGATION.—All employers that are
12 treated as a single employer under subsection (b) or
13 (c) shall be treated as a single employer for purposes
14 of determining if a plan was maintained by more
15 than one employer under paragraph (1)(B).”.

16 **SEC. 4. FUNDING RULES APPLICABLE TO COOPERATIVE**
17 **AND SMALL EMPLOYER CHARITY PENSION**
18 **PLANS.**

19 (a) AMENDMENTS TO ERISA.—

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

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

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

11 “(b) **FUNDING STANDARD ACCOUNT.**—

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

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

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

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

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

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

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

12 “(iii) in the case of a plan that comes
13 into existence on or after the first day of
14 the first plan year beginning after Decem-
15 ber 31, 2013, the unfunded past liability
16 under the plan on the first day of the first
17 plan year to which section 302 applies,
18 over a period of 15 years;

19 “(iv) in the case of a plan that is sub-
20 ject to section 303 for the last plan year
21 beginning before January 1, 2014, the sum
22 of—

23 “(I) the plan’s funding standard
24 carryover balance and prefunding bal-
25 ance (as such terms are defined in

1 section ~~303(f)~~ as of the end of such
2 plan year; and

3 ~~“(H) the unfunded past service~~
4 liability under the plan for the first
5 plan year beginning after December
6 ~~31, 2013,~~

7 over a period of ~~15~~ years;

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

13 ~~“(vi) separately, with respect to each~~
14 plan year; the net experience loss (if any)
15 under the plan; over a period of ~~5~~ plan
16 years; and

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

22 ~~“(C) the amount necessary to amortize~~
23 each waived funding deficiency (within the
24 meaning of section ~~302(e)(3)~~) for each prior

1 plan year in equal annual installments (until
2 fully amortized) over a period of 5 plan years;

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

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

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

19 “(A) the amount considered contributed by
20 the employer to or under the plan for the plan
21 year;

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

1 “(i) separately, with respect to each
2 plan year, the net decrease (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 “(ii) separately, with respect to each
7 plan year, the net experience gain (if any)
8 under the plan, over a period of 5 plan
9 years; and

10 “(iii) separately, with respect to each
11 plan year, the net gain (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 of the waived funding de-
16 ficiency (within the meaning of section
17 302(e)(3)) for the plan year;

18 “(D) in the case of a plan year for which
19 the accumulated funding deficiency is deter-
20 mined under the funding standard account if
21 such plan year follows a plan year for which
22 such deficiency was determined under the alter-
23 native minimum funding standard, the excess
24 (if any) of any debit balance in the funding
25 standard account (determined without regard to

1 this subparagraph) over any debit balance in
2 the alternative minimum funding standard ac-
3 count, and

4 “(E) for the first plan year beginning after
5 December 31, 2013, in the case of a plan that
6 is subject to section 303 for the last plan year
7 beginning before January 1, 2014, the sum of
8 the plan’s funding standard carryover balance
9 and prefunding balance (as such terms are de-
10 fined in section 302(f)) as of the end of the last
11 plan year beginning before January 1, 2014.

12 “(4) COMBINING AND OFFSETTING AMOUNTS
13 TO BE AMORTIZED.—Under regulations prescribed
14 by the Secretary of the Treasury, amounts required
15 to be amortized under paragraph (2) or paragraph
16 (3), as the case may be—

17 “(A) may be combined into one amount
18 under such paragraph to be amortized over a
19 period determined on the basis of the remaining
20 amortization period for all items entering into
21 such combined amount, and

22 “(B) may be offset against amounts re-
23 quired to be amortized under the other such
24 paragraph, with the resulting amount to be am-
25 ortized over a period determined on the basis of

1 the remaining amortization periods for all items
2 entering into whichever of the two amounts
3 being offset is the greater.

4 “(5) INTEREST.—

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

13 “(B) EXCEPTION.—The interest rate used
14 for purposes of computing the amortization
15 charge described in subsection (b)(2)(C) or for
16 purposes of any arrangement under subsection
17 (d) for any plan year shall be greater of (i) 150
18 percent of the Federal mid-term rate (as in ef-
19 fect under section 1274 of the Internal Revenue
20 Code of 1986 for the 1st month of such plan
21 year); or (ii) the rate of interest determined
22 under subparagraph (A).

23 “(6) AMORTIZATION SCHEDULES IN EFFECT.—
24 Amortization schedules for amounts described in
25 paragraphs (2) and (3) that are in effect as of the

1 last day of the last plan year beginning before Janu-
2 ary 1, 2014, by reason of section 104 of the Pension
3 Protection Act of 2006 shall remain in effect pursu-
4 ant to their terms and this section, except that such
5 amounts shall not be amortized again under this sec-
6 tion. In the case of a plan that is subject to section
7 303 for the last plan year beginning before January
8 1, 2014, any amortization schedules and bases for
9 plan years beginning before such date shall be re-
10 duced to zero.

11 “(c) SPECIAL RULES.—

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

18 “(2) VALUATION OF ASSETS.—

19 “(A) IN GENERAL.—For purposes of this
20 section, the value of the plan’s assets shall be
21 determined on the basis of any reasonable actu-
22 arial method of valuation which takes into ac-
23 count fair market value and which is permitted
24 under regulations prescribed by the Secretary of
25 the Treasury.

1 “(B) DEDICATED BOND PORTFOLIO.—The
2 Secretary of the Treasury may by regulations
3 provide that the value of any dedicated bond
4 portfolio of a plan shall be determined by using
5 the interest rate under section 302(b)(5) (as in
6 effect on the day before the enactment of the
7 Pension Protection Act of 2006).

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

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

19 “(B) which, in combination, offer the actu-
20 ary’s best estimate of anticipated experience
21 under the plan.

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

1 “(A) a change in benefits under the Social
2 Security Act or in other retirement benefits cre-
3 ated under Federal or State law; or

4 “(B) a change in the definition of the term
5 ‘wages’ under section 3121 of the Internal Rev-
6 enue Code of 1986 or a change in the amount
7 of such wages taken into account under regula-
8 tions prescribed for purposes of section
9 401(a)(5) of such Code;

10 results in an increase or decrease in accrued liability
11 under a plan; such increase or decrease shall be
12 treated as an experience loss or gain.

13 ~~“(5) FUNDING METHOD AND PLAN YEAR.—~~

14 ~~“(A) FUNDING METHODS AVAILABLE.—All~~
15 funding methods available to CSEC plans under
16 section 302 (as in effect on the day before the
17 enactment of the Pension Protection Act of
18 2006) shall continue to be available under this
19 section.

20 ~~“(B) NOT AFFECTED BY CESSATION OF~~
21 BENEFIT ACCRUALS.—The availability of any
22 funding method, including all spread gain fund-
23 ing methods, shall not be affected by whether
24 benefit accruals under a plan have ceased. Ex-
25 cept as otherwise provided in subparagraph (C)

1 or in regulations prescribed by the Secretary of
2 the Treasury, if benefit accruals have ceased
3 under a plan, the spread gain funding methods
4 may be applied by amortizing over the average
5 expected future lives of all participants.

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

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

18 “(ii) the amount determined by amor-
19 tizing any increase or decrease in such un-
20 funded past service liability in any subse-
21 quent year, other than an increase or de-
22 crease attributable to contributions or ex-
23 pected experience, in equal installments
24 over 15 years.

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

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

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

24 “(B) all amounts described in paragraphs
25 (2)(B), (C), (D), and (E) and (3)(B) of sub-

1 section (b) which are required to be amortized
 2 shall be considered fully amortized for purposes
 3 of such paragraphs.

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

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

13 “(B) the lesser of—

14 “(i) the fair market value of the
 15 plan’s assets; or

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

18 “(C) MINIMUM AMOUNT.—

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

23 “(I) 90 percent of the current li-
 24 ability (determined without regard to
 25 paragraph (4) of subsection (h)) of

1 the plan (including the expected in-
 2 crease in such current liability due to
 3 benefits accruing during the plan
 4 year); over

5 “(H) the value of the plan’s as-
 6 sets determined under paragraph (2).

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

11 “(8) ANNUAL VALUATION.—

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

20 “(B) VALUATION DATE.—

21 “(i) CURRENT YEAR.—Except as pro-
 22 vided in clause (ii), the valuation referred
 23 to in subparagraph (A) shall be made as of
 24 a date within the plan year to which the

1 valuation refers or within one month prior
2 to the beginning of such year.

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

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

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

22 “(9) TIME WHEN CERTAIN CONTRIBUTIONS
23 DEEMED MADE.—For purposes of this section, any
24 contributions for a plan year made by an employer
25 during the period—

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

3 “(B) ending on the day which is 8½
4 months after the close of the plan year;
5 shall be deemed to have been made on such last day.

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

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

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

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

3 “(e) ALTERNATIVE MINIMUM FUNDING STAND-
4 ARD.—

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

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

15 “(A) charged with the sum of—

16 “(i) the lesser of normal cost under
17 the funding method used under the plan or
18 normal cost determined under the unit
19 credit method;

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

24 “(iii) an amount equal to the excess
25 (if any) of credits to the alternative min-

1 imum standard account for all prior plan
2 years over charges to such account for all
3 such years; and

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

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

12 “(f) QUARTERLY CONTRIBUTIONS REQUIRED.—

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

22 “(A) 175 percent of the Federal mid-term
23 rate (as in effect under section 1274 of the In-
24 ternal Revenue Code of 1986 for the 1st month
25 of such plan year); or

1 “(B) the rate of interest used under the
2 plan in determining costs:

3 ~~“(2) AMOUNT OF UNDERPAYMENT, PERIOD OF~~
4 ~~UNDERPAYMENT.—For purposes of paragraph (1)—~~

5 ~~“(A) AMOUNT.—The amount of the under-~~
6 ~~payment shall be the excess of—~~

7 ~~“(i) the required installment, over~~

8 ~~“(ii) the amount (if any) of the in-~~
9 ~~stallment contributed to or under the plan~~
10 ~~on or before the due date for the install-~~
11 ~~ment.~~

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

19 ~~“(C) ORDER OF CREDITING CONTRIBU-~~
20 ~~TIONS.—For purposes of subparagraph (A)(ii),~~
21 ~~contributions shall be credited against unpaid~~
22 ~~required installments in the order in which such~~
23 ~~installments are required to be paid.~~

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

1 “(A) PAYABLE IN 4 INSTALLMENTS.—

2 There shall be 4 required installments for each
3 plan year.

4 “(B) TIME FOR PAYMENT OF INSTALL-
5 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.

6 “(4) AMOUNT OF REQUIRED INSTALLMENT.—

7 For purposes of this subsection—

8 “(A) IN GENERAL.—The amount of any
9 required installment shall be 25 percent of the
10 required annual payment.

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

14 “(i) 90 percent of the amount re-
15 quired to be contributed to or under the
16 plan by the employer for the plan year
17 under section 302 (without regard to any
18 waiver under subsection (e) thereof); or

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

1 Clause (ii) shall not apply if the preceding plan
2 year was not a year of 12 months:

3 ~~“(5) LIQUIDITY REQUIREMENT.—~~

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

13 ~~“(B) PLANS TO WHICH PARAGRAPH AP-~~
14 ~~PLIES.—This paragraph shall apply to a CSEC~~
15 ~~plan other than a plan described in section~~
16 ~~302(1)(6)(A) (as in effect on the day before the~~
17 ~~enactment of the Pension Protection Act of~~
18 ~~2006) which—~~

19 ~~“(i) is required to pay installments~~
20 ~~under this subsection for a plan year, and~~

21 ~~“(ii) has a liquidity shortfall for any~~
22 ~~quarter during such plan year.~~

23 ~~“(C) PERIOD OF UNDERPAYMENT.—For~~
24 ~~purposes of paragraph (1), any portion of an~~
25 ~~installment that is treated as not paid under~~

1 subparagraph (A) shall continue to be treated
2 as unpaid until the close of the quarter in
3 which the due date for such installment occurs.

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

14 “(E) DEFINITIONS.—For purposes of this
15 paragraph:

16 “(i) LIQUIDITY SHORTFALL.—The
17 term ‘liquidity shortfall’ means, with re-
18 spect to any required installment, an
19 amount equal to the excess (as of the last
20 day of the quarter for which such install-
21 ment is made) of the base amount with re-
22 spect to such quarter over the value (as of
23 such last day) of the plan’s liquid assets.

24 “(ii) BASE AMOUNT.—

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

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

23 “(iii) DISBURSEMENTS FROM THE
24 PLAN.—The term ‘disbursements from the
25 plan’ means all disbursements from the

1 trust, including purchases of annuities,
2 payments of single sums and other bene-
3 fits, and administrative expenses.

4 “(iv) ADJUSTED DISBURSEMENTS.—

5 The term ‘adjusted disbursements’ means
6 disbursements from the plan reduced by
7 the product of—

8 “(I) the plan’s funded current li-

9 ability percentage for the plan year,

10 and

11 “(II) the sum of the purchases of

12 annuities, payments of single sums,

13 and such other disbursements as the

14 Secretary of the Treasury shall pro-

15 vide in regulations.

16 “(v) LIQUID ASSETS.—The term ‘liq-

17 uid assets’ means cash, marketable securi-

18 ties and such other assets as specified by

19 the Secretary of the Treasury in regula-

20 tions.

21 “(vi) QUARTER.—The term ‘quarter’

22 means, with respect to any required install-

23 ment, the 3-month period preceding the

24 month in which the due date for such in-

25 stallment occurs.

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

4 “(6) FISCAL YEARS AND SHORT YEARS.—

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

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

14 “(g) IMPOSITION OF LIEN WHERE FAILURE TO
15 MAKE REQUIRED CONTRIBUTIONS.—

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

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

23 “(B) the unpaid balance of such install-
24 ment or other payment (including interest),
25 when added to the aggregate unpaid balance of

1 all preceding such installments or other pay-
2 ments for which payment was not made before
3 the due date (including interest), exceeds
4 \$1,000,000,

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

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

12 This subsection shall apply to a CSEC plan for any
13 plan year for which the funded current liability per-
14 centage of such plan is less than 100 percent. This
15 subsection shall not apply to any plan to which sec-
16 tion 4021 does not apply (as such section is in effect
17 on the date of the enactment of the Retirement Pro-
18 tection Act of 1994).

19 “(3) AMOUNT OF LIEN.—For purposes of para-
20 graph (1), the amount of the lien shall be equal to
21 the aggregate unpaid balance of required install-
22 ments and other payments required under this sec-
23 tion (including interest)—

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

25 and

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

3 ~~“(4) NOTICE OF FAILURE; LIEN.—~~

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

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

19 ~~“(C) CERTAIN RULES TO APPLY.—~~Any
20 amount with respect to which a lien is imposed
21 under paragraph (1) shall be treated as taxes
22 due and owing the United States and rules
23 similar to the rules of subsections (c), (d), and
24 (e) of section 4068 shall apply with respect to

1 a lien imposed by subsection (a) and the
2 amount with respect to such lien.

3 ~~“(5) ENFORCEMENT.—Any lien created under~~
4 paragraph (1) may be perfected and enforced only
5 by the Pension Benefit Guaranty Corporation, or at
6 the direction of the Pension Benefit Guaranty Cor-
7 poration, by the contributing sponsor (or any mem-
8 ber of the controlled group of the contributing spon-
9 sor).

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

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

19 ~~“(B) CONTROLLED GROUP.—The term~~
20 ~~‘controlled group’ means any group treated as~~
21 ~~a single employer under subsections (b), (c),~~
22 ~~(m), and (o) of section 414 of the Internal Rev-~~
23 ~~enue Code of 1986.~~

24 ~~“(h) CURRENT LIABILITY.—For purposes of this sec-~~
25 ~~tion—~~

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

4 “(2) TREATMENT OF UNPREDICTABLE CONTIN-
5 GENT EVENT BENEFITS.—

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

10 “(B) UNPREDICTABLE CONTINGENT
11 EVENT BENEFIT.—The term ‘unpredictable
12 contingent event benefit’ means any benefit
13 contingent on an event other than—

14 “(i) age, service, compensation, death,
15 or disability, or

16 “(ii) an event which is reasonably and
17 reliably predictable (as determined by the
18 Secretary of the Treasury).

19 “(3) INTEREST RATE AND MORTALITY ASSUMP-
20 TIONS USED.—

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

25 “(B) MORTALITY TABLES.—

1 “(i) COMMISSIONERS’ STANDARD
2 TABLE.—In the case of plan years begin-
3 ning before the first plan year to which the
4 first tables prescribed under clause (ii)
5 apply, the mortality table used in deter-
6 mining current liability under this sub-
7 section shall be the table prescribed by the
8 Secretary of the Treasury which is based
9 on the prevailing commissioners’ standard
10 table (described in section 807(d)(5)(A) of
11 the Internal Revenue Code of 1986) used
12 to determine reserves for group annuity
13 contracts issued on January 1, 1993.

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

1 studies of mortality of individuals covered
2 by pension plans.

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

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

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

1 years beginning before January 1, 1995,
2 and for individuals whose disabilities occur
3 in plan years beginning on or after such
4 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:

“If the years of participation are:	The applicable percentage is:
†	20

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

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

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

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

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

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

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

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

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

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

6 “(j) TRANSITION.—The Secretary of the Treasury
7 may prescribe such rules as are necessary or appropriate
8 with respect to the transition of a CSEC plan from the
9 application of section 303 to the application of this sec-
10 tion.”.

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

15 “(4) Notwithstanding any other provision of
16 this section, in the case of a CSEC plan, the require-
17 ments of section 302 shall be determined as if all
18 participants in the plan were employed by a single
19 employer.”.

20 (3) SEPARATE RULES FOR CSEC PLANS.—

21 (A) IN GENERAL.—Paragraph (2) of sec-
22 tion 302(a) of the Employee Retirement Income
23 Security Act of 1974 (29 U.S.C. 1082(a)) is
24 amended by striking “and” at the end of sub-
25 paragraph (B), by striking the period at the

1 end of subparagraph (C) and inserting “, and”,
 2 and by inserting at the end thereof the fol-
 3 lowing 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 306 as of the end of the plan year.”.

10 (B) CONFORMING AMENDMENTS.—Section
 11 302 of the Employee Retirement Income Secu-
 12 rity Act of 1974 (29 U.S.C. 1082) is amended
 13 by—

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

20 (ii) striking “303(j)” in paragraph (1)
 21 of subsection (b) and inserting “303(j) or
 22 under 306(f)”,

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

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

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

7 ~~“(iii) in the case of a CSEC plan, the~~
8 ~~funding standard account shall be credited~~
9 ~~under section 306(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 306(b)(2)(C).”;~~

13 ~~(iv) striking “under paragraph (1)” in~~
14 ~~clause (i) of subsection (e)(4)(A) and in-~~
15 ~~serting “under paragraph (1) or for grant-~~
16 ~~ing an extension under section 306(d)”;~~

17 ~~(v) striking “waiver under this sub-~~
18 ~~section” in subparagraph (B) of subsection~~
19 ~~(e)(4) and inserting “waiver under this~~
20 ~~subsection or an extension under 306(d)”;~~

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

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

5 (viii) striking “304(d)” in subpara-
6 graph (A) of subsection (e)(7) and in para-
7 graph (2) of subsection (d) and inserting
8 “section 304(d) or section 306(d)”;

9 (ix) striking “and” at the end of sub-
10 clause (I) of subsection (e)(4)(C)(i) and
11 adding “or the accumulated funding defi-
12 ciency under section 306, whichever is ap-
13 plicable”;

14 (x) striking “303(e)(2)” in subclause
15 (II) of subsection (e)(4)(C)(i) and inserting
16 “303(e)(2) or 306(b)(2)(C), whichever is
17 applicable, and”;

18 (xi) adding immediately after sub-
19 clause (II) of subsection (e)(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 306(d)”;

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

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

3 (xiii) striking “304(d)” in paragraph
4 (2) of subsection (d) and inserting “304(d)
5 or 306(d), whichever is applicable”; and

6 (xiv) striking “single-employer plan”
7 in subparagraph (A) of subsection (a)(2)
8 and in clause (i) of subsection (e)(1)(B)
9 and inserting “single-employer plan (other
10 than a CSEC plan)”.

11 (4) BENEFIT RESTRICTIONS.—

12 (A) IN GENERAL.—Subsection (g) of sec-
13 tion 206 of the Employee Retirement Income
14 Security Act of 1974 (29 U.S.C. 1056) is
15 amended by adding at the end thereof the fol-
16 lowing new paragraph:

17 “(12) CSEC PLANS.—This subsection shall not
18 apply to a CSEC plan (as defined in section
19 210(f)).”.

20 (B) EFFECTIVE DATE.—Any restriction
21 under section 206(g) of the Employee Retirement
22 Income Security Act of 1974 that is in ef-
23 fect with respect to a CSEC plan as of the last
24 day of the last plan year beginning before Jan-

1 uary 1, 2014, shall cease to apply as of the first
2 day of the following plan year.

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

8 ~~(6) SECTION 103.—~~Subparagraph ~~(B)~~ of section
9 ~~103(d)(8)~~ of the Employee Retirement Income Secu-
10 rity Act of 1974 (~~29 U.S.C. 1023(d)(8)~~) is amended
11 by striking “~~303(h) and 304(e)(3)~~” and inserting
12 “~~303(h), 304(e)(3), and 306(e)(3)~~”.

13 ~~(7) SECTION 4003.—~~Subparagraph ~~(B)~~ of sec-
14 tion ~~4003(e)(1)~~ of the Employee Retirement Income
15 Security Act of 1974 (~~29 U.S.C. 1303(e)(1)~~) is
16 amended by striking “~~303(k)(1)(A) and (B) of this~~
17 Act or section ~~430(k)(1)(A) and (B) of the Internal~~
18 Revenue Code of 1986” and inserting “~~303(k)(1)(A)~~
19 and ~~(B) or 306(g)(1)(A) and (B) of this Act or sec-~~
20 tion ~~430(k)(1)(A) and (B) or 433(g)(1)(A) and (B)~~
21 of the Internal Revenue Code of 1986”.

22 ~~(8) SECTION 4010.—~~Paragraph ~~(2)~~ of section
23 ~~4010(b)~~ of the Employee Retirement Income Secu-
24 rity Act of 1974 (~~29 U.S.C. 1310(b)~~) is amended by
25 striking “~~303(k)(1)(A) and (B) of this Act or sec-~~

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

6 (9) SECTION 4071.—Section 4071 of the Em-
 7 ployee Retirement Income Security Act of 1974 (29
 8 U.S.C. 1371) is amended by striking “section
 9 303(k)(4)” and inserting “section 303(k)(4) or
 10 306(g)(4)”.

11 (b) AMENDMENTS TO CODE.—

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

17 “SEC. 433. MINIMUM FUNDING STANDARDS.

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

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

3 “(b) FUNDING STANDARD ACCOUNT.—

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

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

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

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

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

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

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

5 “(iii) 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 412 applies,
11 over a period of 15 years;

12 “(iv) in the case of a plan that is sub-
13 ject to section 430 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 430(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 412(e)(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
6 412(e)(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
10 412(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 430 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 430(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, amounts required to be amortized
8 under paragraph (2) or paragraph (3), as the case
9 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) Except as provided in subparagraph
24 (B), the funding standard account (and items
25 therein) shall be charged or credited (as deter-

1 mined under regulations prescribed by the Sec-
 2 retary) with interest at the appropriate rate
 3 consistent with the rate or rates of interest
 4 used under the plan to determine costs.

5 “(B) The interest rate used for purposes of
 6 computing the amortization charge described in
 7 subsection (b)(2)(C) or for purposes of any ar-
 8 rangement under subsection (d) for any plan
 9 year shall be greater of—

10 “(i) 150 percent of the Federal mid-
 11 term rate (as in effect under section 1274
 12 for the 1st month of such plan year); or

13 “(ii) the rate of interest determined
 14 under subparagraph (A).

15 “(6) AMORTIZATION SCHEDULES IN EFFECT.—

16 Amortization schedules for amounts described in
 17 paragraphs (2) and (3) that are in effect as of the
 18 last day of the last plan year beginning before Janu-
 19 ary 1, 2014, by reason of section 104 of the Pension
 20 Protection Act of 2006 shall remain in effect pursu-
 21 ant to their terms and this section, except that such
 22 amounts shall not be amortized again under this sec-
 23 tion. In the case of a plan that is subject to section
 24 430 for the last plan year beginning before January
 25 1, 2014, any amortization schedules and bases for

1 plan years beginning before such date shall be re-
2 duced to zero.

3 “(c) SPECIAL RULES.—

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

10 “(2) VALUATION OF ASSETS.—

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

17 “(B) DEDICATED BOND PORTFOLIO.—The
18 Secretary may by regulations provide that the
19 value of any dedicated bond portfolio of a plan
20 shall be determined by using the interest rate
21 under section 412(b)(5) (as in effect on the day
22 before the enactment of the Pension Protection
23 Act of 2006).

24 “(3) ACTUARIAL ASSUMPTIONS MUST BE REA-
25 SONABLE.—For purposes of this section, all costs, li-

1 abilities, rates of interest, and other factors under
2 the plan shall be determined on the basis of actu-
3 arial assumptions and methods—

4 “(A) each of which is reasonable (taking
5 into account the experience of the plan and rea-
6 sonable expectations) or which, in the aggre-
7 gate, result in a total contribution equivalent to
8 that which would be determined if each such as-
9 sumption and method were reasonable; and

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

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

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

19 “(B) a change in the definition of the term
20 ‘wages’ under section 3121 or a change in the
21 amount of such wages taken into account under
22 regulations prescribed for purposes of section
23 401(a)(5);

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

4 “(5) FUNDING METHOD AND PLAN YEAR.—

5 “(A) FUNDING METHODS AVAILABLE.—All
6 funding methods available to CSEC plans under
7 section 412 (as in effect on the day before the
8 enactment of the Pension Protection Act of
9 2006) shall continue to be available under this
10 section.

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

22 “(C) MINIMUM AMOUNT.—In the case of a
23 plan amortizing over the average expected fu-
24 ture lives of all participants pursuant to sub-
25 paragraph (B), such amortization amount for

1 any plan year shall not be less than the sum
2 of—

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

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

16 “(D) CHANGES.—If the funding method
17 for a plan is changed, the new funding method
18 shall become the funding method used to deter-
19 mine costs and liabilities under the plan only if
20 the change is approved by the Secretary. The
21 preceding sentence shall not apply to any
22 change made pursuant to, or permitted by, sub-
23 paragraph (B) if such change is made for the
24 first plan year beginning after December 31,
25 2013. Any such change may be made without

1 the approval of the Secretary. If the plan year
2 for a plan is changed, the new plan year shall
3 become the plan year for the plan only if the
4 change is approved by the Secretary.

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

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

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

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

21 “(A) the accrued liability (including nor-
22 mal cost) under the plan (determined under the
23 entry age normal funding method if such ac-
24 crued liability cannot be directly calculated

1 under the funding method used for the plan);
 2 over

3 “(B) the lesser of—

4 “(i) the fair market value of the
 5 plan’s assets; or

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

8 “(C) MINIMUM AMOUNT.—

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

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

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

22 “(ii) ASSETS.—For purposes of clause
 23 (i), assets shall not be reduced by any
 24 credit balance in the funding standard ac-
 25 count.

1 “(8) ANNUAL VALUATION.—

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

10 “(B) VALUATION DATE.—

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

17 “(ii) USE OF PRIOR YEAR VALU-
18 ATION.—The valuation referred to in sub-
19 paragraph (A) may be made as of a date
20 within the plan year prior to the year to
21 which the valuation refers if, as of such
22 date, the value of the assets of the plan are
23 not less than 100 percent of the plan’s cur-
24 rent liability.

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

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

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

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

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

21 “(10) ANTICIPATION OF BENEFIT INCREASES
22 EFFECTIVE IN THE FUTURE.—In determining pro-
23 jected benefits, the funding method of a collectively
24 bargained CSEC plan described in section 413(a)
25 (other than a multiemployer plan) shall anticipate

1 benefit increases scheduled to take effect during the
2 term of the collective bargaining agreement applica-
3 ble to the plan.

4 ~~“(d) EXTENSION OF AMORTIZATION PERIODS.—The~~
5 ~~period of years required to amortize any unfunded liability~~
6 ~~(described in any clause of subsection (b)(2)(B)) of any~~
7 ~~plan may be extended by the Secretary for a period of~~
8 ~~time (not in excess of 10 years) if such Secretary deter-~~
9 ~~mines that such extension would provide adequate protec-~~
10 ~~tion for participants under the plan and their beneficiaries~~
11 ~~and if such Secretary determines that the failure to permit~~
12 ~~such extension would result in—~~

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

15 ~~“(2) a substantial curtailment of pension ben-~~
16 ~~efit levels or employee compensation.~~

17 ~~“(e) ALTERNATIVE MINIMUM FUNDING STAND-~~
18 ~~ARD.—~~

19 ~~“(1) IN GENERAL.—A CSEC plan which uses a~~
20 ~~funding method that requires contributions in all~~
21 ~~years not less than those required under the entry~~
22 ~~age normal funding method may maintain an alter-~~
23 ~~native minimum funding standard account for any~~
24 ~~plan year. Such account shall be credited and~~
25 ~~charged solely as provided in this subsection.~~

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

2 For a plan year the alternative minimum funding
3 standard account shall be—

4 “(A) charged with the sum of—

5 “(i) the lesser of normal cost under
6 the funding method used under the plan or
7 normal cost determined under the unit
8 credit method;

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

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

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

21 “(3) SPECIAL RULES.—The alternative min-
22 imum funding standard account (and items therein)
23 shall be charged or credited with interest in the
24 manner provided under subsection (b)(5) with re-
25 spect to the funding standard account.

1 “(f) QUARTERLY CONTRIBUTIONS REQUIRED.—

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

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

14 “(B) the rate of interest used under the
15 plan in determining costs.

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

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

20 “(i) the required installment, over

21 “(ii) the amount (if any) of the in-
22 stallment contributed to or under the plan
23 on or before the due date for the install-
24 ment.

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

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

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

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

18 “(B) TIME FOR PAYMENT OF INSTALL-
19 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.

20 “(4) AMOUNT OF REQUIRED INSTALLMENT.—
21 For purposes of this subsection—

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

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

7 “(i) 90 percent of the amount re-
8 quired to be contributed to or under the
9 plan by the employer for the plan year
10 under section 412 (without regard to any
11 waiver under subsection (e) thereof); or

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

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

16 “(5) LIQUIDITY REQUIREMENT.—

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

1 “(B) PLANS TO WHICH PARAGRAPH AP-
2 PLIES.—This paragraph shall apply to a CSEC
3 plan other than a plan described in section
4 412(1)(6)(A) (as in effect on the day before the
5 enactment of the Pension Protection Act of
6 2006) which—

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

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

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

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

1 benefits accruing during the plan year) to 100
2 percent.

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

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

13 “(ii) BASE AMOUNT.—

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

21 “(II) SPECIAL RULE.—If the
22 amount determined under subclause
23 (I) exceeds an amount equal to 2
24 times the sum of the adjusted dis-
25 bursements from the plan for the 36

1 months ending on the last day of the
2 quarter and an enrolled actuary cer-
3 tifies to the satisfaction of the Sec-
4 retary that such excess is the result of
5 nonrecurring circumstances, the base
6 amount with respect to such quarter
7 shall be determined without regard to
8 amounts related to those nonrecurring
9 circumstances.

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

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

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

23 “(II) the sum of the purchases of
24 annuities, payments of single sums,

1 and such other disbursements as the
2 Secretary shall provide in regulations.

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

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

12 “(F) REGULATIONS.—The Secretary may
13 prescribe such regulations as are necessary to
14 carry out this paragraph.

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

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

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

1 “(g) IMPOSITION OF LIEN WHERE FAILURE TO
2 MAKE REQUIRED CONTRIBUTIONS.—

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

5 “(A) any person fails to make a required
6 installment under subsection (f) or any other
7 payment required under this section before the
8 due date for such installment or other payment,
9 and

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

17 then there shall be a lien in favor of the plan in the
18 amount determined under paragraph (3) upon all
19 property and rights to property, whether real or per-
20 sonal, belonging to such person and any other per-
21 son who is a member of the same controlled group
22 of which such person is a member.

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

24 This subsection shall apply to a CSEC plan for any
25 plan year for which the funded current liability per-

1 centage of such plan is less than 100 percent. This
 2 subsection shall not apply to any plan to which sec-
 3 tion 4021 of the Employee Retirement Income Secu-
 4 rity Act of 1974 does not apply (as such section is
 5 in effect on the date of the enactment of the Retire-
 6 ment Protection Act of 1994).

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

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

13 and

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

16 “(4) NOTICE OF FAILURE; LIEN.—

17 “(A) NOTICE OF FAILURE.—A person
 18 committing a failure described in paragraph (1)
 19 shall notify the Pension Benefit Guaranty Cor-
 20 poration of such failure within 10 days of the
 21 due date for the required installment or other
 22 payment.

23 “(B) PERIOD OF LIEN.—The lien imposed
 24 by paragraph (1) shall arise on the due date for
 25 the required installment or other payment and

1 shall continue until the last day of the first plan
2 year in which the plan ceases to be described in
3 paragraph (1)(B). Such lien shall continue to
4 run without regard to whether such plan con-
5 tinues to be described in paragraph (2) during
6 the period referred to in the preceding sentence.

7 “(C) CERTAIN RULES TO APPLY.—Any
8 amount with respect to which a lien is imposed
9 under paragraph (1) shall be treated as taxes
10 due and owing the United States and rules
11 similar to the rules of subsections (c), (d), and
12 (e) of section 4068 of the Employee Retirement
13 Income Security Act of 1974 shall apply with
14 respect to a lien imposed by subsection (a) and
15 the amount with respect to such lien.

16 “(5) ENFORCEMENT.—Any lien created under
17 paragraph (1) may be perfected and enforced only
18 by the Pension Benefit Guaranty Corporation, or at
19 the direction of the Pension Benefit Guaranty Cor-
20 poration, by the contributing sponsor (or any mem-
21 ber of the controlled group of the contributing spon-
22 sor).

23 “(6) DEFINITIONS.—For purposes of this sub-
24 section—

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

8 “(B) CONTROLLED GROUP.—The term
 9 ‘controlled group’ means any group treated as
 10 a single employer under subsections (b), (c),
 11 (m), and (o) of section 414.

12 “(h) CURRENT LIABILITY.—For purposes of this sec-
 13 tion—

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

17 “(2) TREATMENT OF UNPREDICTABLE CONTIN-
 18 GENT EVENT BENEFITS.—

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

23 “(B) UNPREDICTABLE CONTINGENT
 24 EVENT BENEFIT.—The term ‘unpredictable

1 contingent event benefit' means any benefit
 2 contingent on an event other than—

3 “(i) age, service, compensation, death,
 4 or disability, or

5 “(ii) an event which is reasonably and
 6 reliably predictable (as determined by the
 7 Secretary).

8 “(3) INTEREST RATE AND MORTALITY ASSUMP-
 9 TIONS USED.—

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

14 “(B) MORTALITY TABLES.—

15 “(i) COMMISSIONERS' STANDARD
 16 TABLE.—In the case of plan years begin-
 17 ning before the first plan year to which the
 18 first tables prescribed under clause (ii)
 19 apply, the mortality table used in deter-
 20 mining current liability under this sub-
 21 section shall be the table prescribed by the
 22 Secretary which is based on the prevailing
 23 commissioners' standard table (described
 24 in section 807(d)(5)(A)) used to determine

1 reserves for group annuity contracts issued
2 on January 1, 1993.

3 “(ii) SECRETARIAL AUTHORITY.—The
4 Secretary may by regulation prescribe for
5 plan years beginning after December 31,
6 1999, mortality tables to be used in deter-
7 mining current liability under this sub-
8 section. Such tables shall be based upon
9 the actual experience of pension plans and
10 projected trends in such experience. In pre-
11 scribing such tables, the Secretary shall
12 take into account results of available inde-
13 pendent studies of mortality of individuals
14 covered by pension plans.

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

23 “(C) SEPARATE MORTALITY TABLES FOR
24 THE DISABLED.—Notwithstanding subpara-
25 graph (B)—

1 “(i) IN GENERAL.—In the case of
2 plan years beginning after December 31,
3 1995, the Secretary shall establish mor-
4 tality tables which may be used (in lieu of
5 the tables under subparagraph (B)) to de-
6 termine current liability under this sub-
7 section for individuals who are entitled to
8 benefits under the plan on account of dis-
9 ability. The Secretary shall establish sepa-
10 rate tables for individuals whose disabil-
11 ities occur in plan years beginning before
12 January 1, 1995, and for individuals
13 whose disabilities occur in plan years be-
14 ginning on or after such date.

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

24 “(4) CERTAIN SERVICE DISREGARDED.—

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

7 “(B) APPLICABLE PERCENTAGE.—For
 8 purposes of this subparagraph, the applicable
 9 percentage shall be determined as follows:

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

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

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

19 “(ii) who first becomes a participant
 20 under the plan in a plan year beginning
 21 after December 31, 1987, and

1 “(iii) has years of service greater than
2 the minimum years of service necessary for
3 eligibility to participate in the plan.

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

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

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

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

15 “(j) TRANSITION.—The Secretary may prescribe such
16 rules as are necessary or appropriate with respect to the
17 transition of a CSEC plan from the application of section
18 430 to the application of this section.”.

19 “(2) CSEC PLANS.—Section 413 of the Internal
20 Revenue Code of 1986 is amended by adding at the
21 end thereof the following new subsection:

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

1 “(1) FUNDING.—The requirements of section
2 412 shall be determined as if all participants in the
3 plan were employed by a single employer.

4 “(2) APPLICATION OF PROVISIONS.—Para-
5 graphs (1), (2), (3), and (5) of subsection (e) shall
6 apply.”.

7 (3) SEPARATE RULES FOR CSEC PLANS.—

8 (A) IN GENERAL.—Paragraph (2) of sec-
9 tion 412(a) of the Internal Revenue Code of
10 1986 is amended by striking “and” at the end
11 of subparagraph (B), by striking the period at
12 the end of subparagraph (C) and inserting “,
13 and”, and by inserting at the end thereof the
14 following new subparagraph:

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

21 (B) CONFORMING AMENDMENTS.—Section
22 412 of the Internal Revenue Code of 1986 is
23 amended by—

24 (i) striking “multiemployer plan” in
25 paragraph (A) of subsection (a)(2), in

1 clause (i) of subsection (e)(1)(B), in the
 2 first place it appears in clause (i) of sub-
 3 section (e)(1)(A), and in the last place it
 4 appears in paragraph (2) of subsection (d),
 5 and inserting “multiemployer plan or a
 6 CSEC plan”;

7 (ii) striking “430(j)” in paragraph (1)
 8 of subsection (b) and inserting “430(j) or
 9 under 433(f)”;

10 (iii)(I) striking “and” at the end of
 11 clause (i) of subsection (e)(1)(B);

12 (II) striking the period at the end of
 13 clause (ii) of subsection (e)(1)(B), and in-
 14 serting “, and”;

15 (III) inserting the following new
 16 clause after clause (ii) of subsection
 17 (e)(1)(B):

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

24 (iv) striking “under paragraph (1)” in
 25 clause (i) of subsection (e)(1)(A) and in-

1 serting “under paragraph (1) or for grant-
2 ing an extension under section 433(d)”;

3 (v) striking “waiver under this sub-
4 section” in subparagraph (B) of subsection
5 (e)(4) and inserting “waiver under this
6 subsection or an extension under 433(d)”;

7 (vi) striking “waiver or modification”
8 in subclause (I) of subsection (e)(4)(B)(i)
9 and inserting “waiver, modification, or ex-
10 tension”;

11 (vii) striking “waivers” in the heading
12 of subsection (e)(4)(C) and of clause (ii) of
13 subsection (e)(4)(C) and inserting “waivers
14 or extensions”;

15 (viii) striking “431(d)” in subpara-
16 graph (A) of subsection (e)(7) and in para-
17 graph (2) of subsection (d) and inserting
18 “section 431(d) or section 433(d)”;

19 (ix) striking “and” at the end of sub-
20 clause (I) of subsection (e)(4)(C)(i) and in-
21 serting “or the accumulated funding defi-
22 ciency under section 433, whichever is ap-
23 plicable”;

24 (x) striking “430(e)(2)” in subclause
25 (H) of subsection (e)(4)(C)(i) and inserting

1 “430(e)(2) or 433(b)(2)(C), whichever is
2 applicable, and”;

3 (xi) adding immediately after sub-
4 clause (H) of subsection (e)(4)(C)(i) the
5 following new subclause:

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

9 (xii) striking “for waivers of” in
10 clause (ii) of subsection (e)(4)(C) and in-
11 serting “for waivers or extensions with re-
12 spect to”, and

13 (xiii) striking “431(d)” in paragraph
14 (2) of subsection (d) and inserting “431(d)
15 or 433(d), whichever is applicable”.

16 (4) BENEFIT RESTRICTIONS.—

17 (A) IN GENERAL.—Paragraph (29) of sec-
18 tion 401(a) of the Internal Revenue Code of
19 1986 is amended by striking “multiemployer
20 plan” and inserting “multiemployer plan or a
21 CSEC plan”.

22 (B) CONFORMING CHANGE.—Subsection
23 (a) of section 436 of the Internal Revenue Code
24 of 1986 is amended by striking “single-em-

1 ployer plan” and inserting “single-employer
2 plan (other than a CSEC plan)”.

3 (C) EFFECTIVE DATE.—Any restriction
4 under sections 401(a)(29) and 436 of the Inter-
5 nal Revenue Code of 1986 that is in effect with
6 respect to a CSEC plan as of the last day of
7 the last plan year beginning before January 1,
8 2014, shall cease to apply as of the first day of
9 the following plan year.

10 (5) BENEFIT INCREASES.—Subparagraph (C)
11 of section 401(a)(33) of the Internal Revenue Code
12 of 1986 is amended by striking “multiemployer
13 plans” and inserting “multiemployer plans or CSEC
14 plans”.

15 **SEC. 5. TRANSPARENCY.**

16 (a) NOTICE TO PARTICIPANTS.—

17 (1) IN GENERAL.—Paragraph (2) of section
18 401(f) of the Employee Retirement Income Security
19 Act of 1974 (29 U.S.C. 1021(f)) is amended by add-
20 ing at the end the following new subparagraph:

21 “(E) EFFECT OF CSEC PLAN RULES ON
22 PLAN FUNDING.—

23 “(i) IN GENERAL.—In the case of a
24 CSEC plan, each notice under paragraph
25 (1) shall include—

1 “(I) a statement that different
2 rules apply to CSEC plans than apply
3 to single-employer plans;

4 “(II) for the first 2 plan years
5 beginning after December 31, 2013, a
6 statement that, as a result of changes
7 in the law made by the Cooperative
8 and Small Employer Charity Pension
9 Flexibility Act, the contributions to
10 the plan may have changed; and

11 “(III) for the first 2 plan years
12 beginning after December 31, 2013, a
13 statement that participants and par-
14 ticipating employers may request a
15 table which shows (determined both
16 with and without regard to such dif-
17 ferent rules) the required minimum
18 contributions to the plan for the appli-
19 cable plan year and each of the 2 pre-
20 ceeding plan years.

21 “(ii) APPLICABLE PLAN YEAR.—For
22 purposes of this subparagraph, the term
23 ‘applicable plan year’ means any plan year
24 beginning after December 31, 2013, for
25 which—

1 “(I) the plan has a funding
2 shortfall (as defined in section
3 ~~303(c)(4)~~) greater than \$1,000,000,
4 and

5 “(II) the plan had 50 or more
6 participants on any day during the
7 preceding plan year.

8 For purposes of any determination under
9 subclause (II), the aggregation rule under
10 the last sentence of section ~~303(g)(2)(B)~~
11 shall apply.

12 “(iii) SPECIAL RULE FOR PLAN YEARS
13 BEGINNING BEFORE 2014.—In the case of
14 a preceding plan year referred to in clause
15 (i)(III) which begins before January 1,
16 2014, the information described in such
17 clause shall be provided only without re-
18 gard to the different rules applicable to
19 CSEC plans.”.

20 (2) MODEL NOTICE.—The Secretary of Labor
21 may modify the model notice required to be pub-
22 lished under section 501(c) of the Pension Protec-
23 tion Act of 2006 to include the information de-
24 scribed in section ~~101(f)(2)(E)~~ of the Employee Re-

1 retirement Income Security Act of 1974, as added by
2 this subsection:

3 (b) NOTICE OF FAILURE TO MEET MINIMUM FUND-
4 ING STANDARDS.—

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

9 (2) DEFINITIONS.—Paragraph (3) of section
10 101(d) of the Employee Retirement Income Security
11 Act of 1974 (29 U.S.C. 1021(d)) is amended by
12 striking “303(j)” and inserting “303(j) or 306(f),
13 whichever is applicable”.

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

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

1 **SEC. 6. ELECTIONS.**

2 (a) ~~ELECTION NOT TO BE TREATED AS A CSEC~~
 3 ~~PLAN.—~~

4 (1) ~~AMENDMENT TO ERISA.—~~Subsection (f) of
 5 section 210 of the Employee Retirement Income Se-
 6 curity Act of 1974, as added by section 3, is amend-
 7 ed by adding at the end the following new para-
 8 graph:

9 “(3) ~~ELECTION.—~~

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

21 “(B) ~~SPECIAL RULE.—~~If a plan described
 22 in subparagraph (A) is treated as a CSEC plan,
 23 section 104 of the Pension Protection Act of
 24 2006, as amended by the Preservation of Ac-
 25 cess to Care for Medicare Beneficiaries and
 26 Pension Relief Act of 2010, shall cease to apply

1 to such plan as of the first date as of which
2 such plan is treated as a CSEC plan.”.

3 ~~(2)~~ AMENDMENT TO THE CODE.—Section
4 414(y) of the Internal Revenue Code of 1986, as
5 added by section 3, is amended by adding at the end
6 the following new paragraph:

7 “~~(3)~~ ELECTION.—

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

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

1 to such plan as of the first date as of which
2 such plan is treated as a CSEC plan.”.

3 (b) ~~ELECTION TO CEASE TO BE TREATED AS AN~~
4 ~~ELIGIBLE CHARITY PLAN.—~~

5 (1) ~~IN GENERAL.—~~Subsection (d) of section
6 104 of the Pension Protection Act of 2006, as added
7 by section 202 of the Preservation of Access to Care
8 for Medicare Beneficiaries and Pension Relief Act of
9 2010, is amended by—

10 (A) striking “For purposes of” and insert-
11 ing “(1) ~~IN GENERAL.—~~For purposes of”, and
12 (B) adding at the end the following:

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

22 “(3) ~~ELECTION TO USE FUNDING OPTIONS~~
23 ~~AVAILABLE TO OTHER PLAN SPONSORS.—~~

24 “(A) A plan sponsor that makes the elec-
25 tion described in paragraph (2) may elect for a

1 plan to apply the rules described in subpara-
2 graphs (B), (C), and (D) for plan years begin-
3 ning after December 31, 2013. Such election
4 shall be made at such time and in such form
5 and manner as shall be prescribed by the Sec-
6 retary of the Treasury. Any such election may
7 be revoked only with the consent of the Sec-
8 retary of the Treasury.

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

12 “(i) an 11-year shortfall amortization
13 base,

14 “(ii) a 12-year shortfall amortization
15 base, and

16 “(iii) a 7-year shortfall amortization
17 base.

18 “(C) Under the rules described in this sub-
19 paragraph, section 303(c)(2)(A) and (B) of the
20 Employee Retirement Income Security Act of
21 1974, and section 430(c)(2)(A) and (B) of the
22 Internal Revenue Code of 1986 shall be applied
23 by—

24 “(i) in the case of an 11-year shortfall
25 amortization base, substituting ‘11-plan-

1 year period' for '7-plan-year period' wher-
2 ever such phrase appears, and

3 “(ii) in the case of a 12-year shortfall
4 amortization base, substituting '12-plan-
5 year period' for '7-plan-year period' wher-
6 ever such phrase appears.

7 “(D) Under the rules described in this sub-
8 paragraph, section 303(e)(7) of the Employee
9 Retirement Income Security Act of 1974, and
10 section 430(e)(7) of the Internal Revenue Code
11 of 1986 shall apply to a plan for which an elec-
12 tion has been made under subparagraph (A).
13 Such provisions shall apply in the following
14 manner:

15 “(i) The first plan year beginning
16 after December 31, 2013, shall be treated
17 as an election year, and no other plan
18 years shall be so treated.

19 “(ii) All references in section
20 303(e)(7) of such Act and section
21 430(e)(7) of such Code to 'February 28,
22 2010' or 'March 1, 2010' shall be treated
23 as references to 'February 28, 2013' or
24 'March 1, 2013', respectively.

1 “(E) For purposes of this paragraph, the
2 11-year amortization base is an amount, deter-
3 mined for the first plan year beginning after
4 December 31, 2013, equal to the unamortized
5 principal amount of the shortfall amortization
6 base (as defined in section 303(e)(3) of the Em-
7 ployee Retirement Income Security Act of 1974
8 and section 430(e)(3) of the Internal Revenue
9 Code of 1986) that would have applied to the
10 plan for the first plan beginning after Decem-
11 ber 31, 2009, if—

12 “(i) the plan had never been an eligi-
13 ble charity plan;

14 “(ii) the plan sponsor had made the
15 election described in section
16 303(e)(2)(D)(i) of the Employee Retirement
17 Income Security Act of 1974 and in
18 section 430(e)(2)(D)(i) of the Internal
19 Revenue Code of 1986 to have section
20 303(e)(2)(D)(i) of such Act and section
21 430(e)(2)(D)(iii) of such Code apply with
22 respect to the shortfall amortization base
23 for the first plan year beginning after De-
24 cember 31, 2009, and

1 “(iii) no event had occurred under
2 paragraph (6) or (7) of section 303(e) of
3 such Act or paragraph (6) or (7) of section
4 430(e) of such Code that, as of the first
5 day of the first plan year beginning after
6 December 31, 2013, would have modified
7 the shortfall amortization base or the
8 shortfall amortization installments with re-
9 spect to the first plan year beginning after
10 December 31, 2009.

11 “(F) For purposes of this paragraph, the
12 12-year amortization base is an amount, deter-
13 mined for the first plan year beginning after
14 December 31, 2013, equal to the unamortized
15 principal amount of the shortfall amortization
16 base (as defined in section 303(e)(3) of the Em-
17 ployee Retirement Income Security Act of 1974
18 and section 430(e)(3) of the Internal Revenue
19 Code of 1986) that would have applied to the
20 plan for the first plan beginning after Decem-
21 ber 31, 2010, if—

22 “(i) the plan had never been an eligi-
23 ble charity plan;

24 “(ii) the plan sponsor had made the
25 election described in section

1 303(e)(2)(D)(i) of the Employee Retirement
2 Income Security Act of 1974 and in
3 section 430(e)(2)(D)(i) of the Internal
4 Revenue Code of 1986 to have section
5 303(e)(2)(D)(i) of such Act and section
6 430(e)(2)(D)(iii) of such Code apply with
7 respect to the shortfall amortization base
8 for the first plan year beginning after De-
9 cember 31, 2010, and

10 “(iii) no event had occurred under
11 paragraph (6) or (7) of section 303(e) of
12 such Act or paragraph (6) or (7) of section
13 430(e) of such Code that, as of the first
14 day of the first plan year beginning after
15 December 31, 2013, would have modified
16 the shortfall amortization base or the
17 shortfall amortization installments with re-
18 spect to the first plan year beginning after
19 December 31, 2010.

20 “(G) For purposes of this paragraph, the
21 7-year shortfall amortization base is an amount,
22 determined for the first plan year beginning
23 after December 31, 2013, equal to—

24 “(i) the shortfall amortization base for
25 the first plan year beginning after Decem-

1 ber ~~31, 2013~~, without regard to this para-
2 graph, minus

3 “~~(ii) the sum of the 11-year shortfall~~
4 amortization base and the 12-year shortfall

5 amortization base.”.

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

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

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

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

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

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

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

5 (a) **FLAT-RATE PREMIUM.**—Subparagraph (A) of
 6 section 4006(a)(3) of the Employee Retirement Income
 7 Security Act of 1974 (29 U.S.C. 1306(a)(3)) is amend-
 8 ed—

9 (1) in clause (i)—

10 (A) by striking “in the case of a single-em-
 11 ployer plan” and inserting “except as provided
 12 in clause (vi), in the case of a single-employer
 13 plan”; and

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

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

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

19 (4) by adding at the end thereof the following
 20 new clause:

21 “(vi) in the case of a CSEC plan (as
 22 defined in section 210(f)), an amount for
 23 each individual who is a participant in
 24 such plan during the plan year equal to the
 25 sum of the additional premium (if any) de-

1 scribed under subparagraph (K) and
2 \$42.”.

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

6 “(K)(i) The additional premium deter-
7 mined under this subparagraph with respect to
8 any plan for any plan year—

9 “(I) shall be an amount equal to the
10 amount determined under clause (ii) di-
11 vided by the number of participants in
12 such plan as of the close of the preceding
13 year; and

14 “(II) in the case of plan years begin-
15 ning in a calendar year after 2013, shall
16 not exceed the dollar amount described in
17 subparagraph (E)(i)(II) (without the appli-
18 cation of subparagraph (J)).

19 “(ii) The amount determined under this
20 clause for any plan shall be an amount equal to
21 \$9.00 for each \$1,000 (or fraction thereof) of
22 unfunded vested benefits under the plan as of
23 the close of the preceding plan year. For this
24 purpose, the term ‘unfunded vested benefits’

1 shall have the meaning given such term under
 2 clauses (iii) and (iv) of subparagraph (E).”.

3 ~~(c) STUDY OF CSEC PLANS.—~~

4 ~~(1) IN GENERAL.—~~The Pension Benefit Guaranty Corporation shall conduct a study to determine
 5 if there is empirical evidence to support modifying
 6 the premium structure under section 4006(a)(3) of
 7 the Employee Retirement Income Security Act of
 8 1974 (~~29 U.S.C. 1306(a)(3)(A)~~) for CSEC plans.

9
 10 ~~(2) DATA.—~~The study under paragraph ~~(1)~~
 11 shall include data with respect to—

12 ~~(A)~~ the portion of the Pension Benefit
 13 Guaranty Corporation’s total liabilities that are
 14 attributable to CSEC plans;

15 ~~(B)~~ the ratio of such portion to the total
 16 of the funding targets of CSEC plans; and

17 ~~(C)~~ with respect to single-employer plans
 18 other than CSEC plans, the ratio of—

19 ~~(i)~~ the portion of the Pension Benefit
 20 Guaranty Corporation’s total liabilities
 21 that are attributable to such plans; to

22 ~~(ii)~~ the total of the funding targets of
 23 such plans.

24 ~~(3) ESTIMATES.—~~In carrying out paragraph
 25 ~~(2)~~, the Pension Benefit Guaranty Corporation shall

1 make such reasonable estimates as are necessary or
2 appropriate in providing the data described in such
3 paragraph.

4 (4) REPORT.—The Pension Benefit Guaranty
5 Corporation shall report the results of the study con-
6 ducted under paragraph (1), together with any rec-
7 ommendations for legislative changes, to the Com-
8 mittee on Health, Education, Labor, and Pensions
9 of the Senate and the Committee on Education and
10 the Workforce of the House of Representatives.

11 (5) PARTICIPANT AND PLAN SPONSOR ADVOCATE.—The report described in paragraph (4) shall
12 include a section prepared by the Participant and
13 Plan Sponsor Advocate of the Pension Benefit Guar-
14 anty Corporation that includes a statement setting
15 forth the position of such Participant and Plan
16 Sponsor Advocate on the process underlying the
17 study and the conclusions set forth in the report.

18 (6) DEFINITIONS.—In this section—

19 (A) the term “CSEC plan” has the mean-
20 ing given such term in section 210 of the Em-
21 ployee Retirement Income Security Act of 1974
22 (as added by section 3); and
23

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

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

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

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

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

15 (2) the help and assistance available through
16 the Participant and Plan Sponsor Advocate estab-
17 lished under section 4004 of such Act (~~29 U.S.C.~~
18 ~~1304~~).

19 **SEC. 9. EFFECTIVE DATE.**

20 Unless otherwise specified in this Act, the provisions
21 of this Act shall apply to years beginning after December
22 31, 2013.

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

2 (a) *SHORT TITLE.*—*This Act may be cited as the “Co-*
 3 *operative and Small Employer Charity Pension Flexibility*
 4 *Act”.*

5 (b) *TABLE OF CONTENTS.*—*The table of contents of this*
 6 *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 pen-
sion plans.

Sec. 5. Transparency.

Sec. 6. Elections.

Sec. 7. Sponsor education and assistance.

Sec. 8. Effective date.

7 **SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATIONS OF**
 8 **POLICY.**

9 *Congress finds as follows:*

10 (1) *Defined benefit pension plans are a cost-effec-*
 11 *tive way for cooperative associations and charities to*
 12 *provide their employees with economic security in re-*
 13 *tirement.*

14 (2) *Many cooperative associations and charitable*
 15 *organizations are only able to provide their employees*
 16 *with defined benefit pension plans because those orga-*
 17 *nizations are able to pool their resources using the*
 18 *multiple employer plan structure.*

19 (3) *The pension funding rules should encourage*
 20 *cooperative associations and charities to continue to*
 21 *provide their employees with pension benefits.*

1 **SEC. 3. DEFINITION OF COOPERATIVE AND SMALL EM-**
 2 **PLOYER CHARITY PENSION PLANS.**

3 (a) *AMENDMENT TO ERISA.*—Section 210 of the Em-
 4 *ployee Retirement Income Security Act of 1974 (29 U.S.C.*
 5 *1060) is amended by adding at the end the following new*
 6 *subsection:*

7 “(f) *COOPERATIVE AND SMALL EMPLOYER CHARITY*
 8 *PENSION PLANS.*—

9 “(1) *IN GENERAL.*—For purposes of this title, ex-
 10 *cept as provided in this subsection, a CSEC plan is*
 11 *an employee pension benefit plan (other than a multi-*
 12 *employer plan) that is a defined benefit plan—*

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

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

17 “(ii) *the amendments to such section*
 18 *104 by section 202(b) of the Preservation of*
 19 *Access to Care for Medicare Beneficiaries*
 20 *and Pension Relief Act of 2010; and*

21 “(iii) *paragraph (3)(B); or*

22 “(B) *that, as of January 1, 2013, was*
 23 *maintained by more than one employer and all*
 24 *of the employers were organizations described in*
 25 *section 501(c)(3) of the Internal Revenue Code of*
 26 *1986.*

1 “(2) *AGGREGATION.*—*All employers that are*
 2 *treated as a single employer under subsection (b) or*
 3 *(c) of section 414 of the Internal Revenue Code of*
 4 *1986 shall be treated as a single employer for pur-*
 5 *poses of determining if a plan was maintained by*
 6 *more than one employer under paragraph (1)(B).”.*

7 “(b) *AMENDMENT TO CODE.*—*Section 414 of the Inter-*
 8 *nal Revenue Code of 1986 is amended by adding at the end*
 9 *the following new subsection:*

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

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

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

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

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

24 “(iii) *paragraph (3)(B); or*

1 “(B) that, as of January 1, 2013, was
2 maintained by more than one employer and all
3 of the employers were organizations described in
4 section 501(c)(3).

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

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

13 (a) *AMENDMENTS TO ERISA*.—

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

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

20 “(a) *GENERAL RULE*.—For purposes of section 302,
21 the term ‘accumulated funding deficiency’ for a CSEC plan
22 means the excess of the total charges to the funding standard
23 account for all plan years (beginning with the first plan
24 year to which section 302 applies) over the total credits to
25 such account for such years or, if less, the excess of the total

1 *charges to the alternative minimum funding standard ac-*
2 *count for such plan years over the total credits to such ac-*
3 *count for such years.*

4 “(b) *FUNDING STANDARD ACCOUNT.*—

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

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 be-*
25 *ginning after December 31, 2013, the un-*

1 *funded past service liability under the plan*
2 *on the first day of the first plan year to*
3 *which section 302 applies, over a period of*
4 *30 plan years,*

5 *“(iii) in the case of a plan that is sub-*
6 *ject to section 303 for the last plan year be-*
7 *ginning before January 1, 2014, the sum*
8 *of—*

9 *“(I) the plan’s funding standard*
10 *carryover balance and prefunding bal-*
11 *ance (as such terms are defined in sec-*
12 *tion 303(f)) as of the end of such plan*
13 *year, and*

14 *“(II) the unfunded past service li-*
15 *ability under the plan for the first*
16 *plan year beginning after December*
17 *31, 2013,*

18 *over a period of 15 years,*

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

24 *“(v) separately, with respect to each*
25 *plan year, the net experience loss (if any)*

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

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

8 “(C) *the amount necessary to amortize each*
9 *waived funding deficiency (within the meaning*
10 *of section 302(c)(3)) for each prior plan year in*
11 *equal annual installments (until fully amor-*
12 *tized) over a period of 5 plan years,*

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

18 “(E) *the amount necessary to amortize in*
19 *equal annual installments (until fully amor-*
20 *tized) over a period of 20 years the contributions*
21 *which would be required to be made under the*
22 *plan but for the provisions of section*
23 *302(c)(7)(A)(i)(I) (as in effect on the day before*
24 *the enactment of the Pension Protection Act of*
25 *2006).*

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

4 “(A) *the amount considered contributed by*
5 *the employer to or under the plan for the plan*
6 *year,*

7 “(B) *the amount necessary to amortize in*
8 *equal annual installments (until fully amor-*
9 *tized)—*

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

15 “(ii) *separately, with respect to each*
16 *plan year, the net experience gain (if any)*
17 *under the plan, over a period of 5 plan*
18 *years, and*

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

1 “(C) the amount of the waived funding defi-
2 ciency (within the meaning of section 302(c)(3))
3 for the plan year,

4 “(D) in the case of a plan year for which
5 the accumulated funding deficiency is deter-
6 mined under the funding standard account if
7 such plan year follows a plan year for which
8 such deficiency was determined under the alter-
9 native minimum funding standard, the excess (if
10 any) of any debit balance in the funding stand-
11 ard account (determined without regard to this
12 subparagraph) over any debit balance in the al-
13 ternative minimum funding standard account,
14 and

15 “(E) for the first plan year beginning after
16 December 31, 2013, in the case of a plan that is
17 subject to section 303 for the last plan year be-
18 ginning before January 1, 2014, the sum of the
19 plan’s funding standard carryover balance and
20 prefunding balance (as such terms are defined in
21 section 302(f)) as of the end of the last plan year
22 beginning before January 1, 2014.

23 “(4) COMBINING AND OFFSETTING AMOUNTS TO
24 BE AMORTIZED.—Under regulations prescribed by the
25 Secretary of the Treasury, amounts required to be

1 *amortized under paragraph (2) or paragraph (3), as*
2 *the case may be—*

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

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

15 “(5) *INTEREST.—*

16 “(A) *IN GENERAL.—Except as provided in*
17 *subparagraph (B), the funding standard account*
18 *(and items therein) shall be charged or credited*
19 *(as determined under regulations prescribed by*
20 *the Secretary of the Treasury) with interest at*
21 *the appropriate rate consistent with the rate or*
22 *rates of interest used under the plan to determine*
23 *costs.*

24 “(B) *EXCEPTION.—The interest rate used*
25 *for purposes of computing the amortization*

1 charge described in subsection (b)(2)(C) or for
2 purposes of any arrangement under subsection
3 (d) for any plan year shall be the greater of (i)
4 150 percent of the Federal mid-term rate (as in
5 effect under section 1274 of the Internal Revenue
6 Code of 1986 for the 1st month of such plan
7 year), or (ii) the rate of interest determined
8 under subparagraph (A).

9 “(6) *AMORTIZATION SCHEDULES IN EFFECT.*—

10 *Amortization schedules for amounts described in*
11 *paragraphs (2) and (3) that are in effect as of the last*
12 *day of the last plan year beginning before January*
13 *1, 2014, by reason of section 104 of the Pension Pro-*
14 *tection Act of 2006 shall remain in effect pursuant to*
15 *their terms and this section, except that such amounts*
16 *shall not be amortized again under this section. In*
17 *the case of a plan that is subject to section 303 for*
18 *the last plan year beginning before January 1, 2014,*
19 *any amortization schedules and bases for plan years*
20 *beginning before such date shall be reduced to zero.*

21 “(c) *SPECIAL RULES.*—

22 “(1) *DETERMINATIONS TO BE MADE UNDER*
23 *FUNDING METHOD.*—*For purposes of this section, nor-*
24 *mal costs, accrued liability, past service liabilities,*
25 *and experience gains and losses shall be determined*

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

3 “(2) *VALUATION OF ASSETS.—*

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

11 “(B) *DEDICATED BOND PORTFOLIO.—The*
12 *Secretary of the Treasury may by regulations*
13 *provide that the value of any dedicated bond*
14 *portfolio of a plan shall be determined by using*
15 *the interest rate under section 302(b)(5) (as in*
16 *effect on the day before the enactment of the Pen-*
17 *sion Protection Act of 2006).*

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

23 “(A) *each of which is reasonable (taking*
24 *into account the experience of the plan and rea-*
25 *sonable expectations) or which, in the aggregate,*

1 *result in a total contribution equivalent to that*
 2 *which would be determined if each such assump-*
 3 *tion and method were reasonable, and*

4 *“(B) which, in combination, offer the actu-*
 5 *ary’s best estimate of anticipated experience*
 6 *under the plan.*

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

10 *“(A) a change in benefits under the Social*
 11 *Security Act or in other retirement benefits cre-*
 12 *ated under Federal or State law, or*

13 *“(B) a change in the definition of the term*
 14 *‘wages’ under section 3121 of the Internal Rev-*
 15 *enue Code of 1986 or a change in the amount of*
 16 *such wages taken into account under regulations*
 17 *prescribed for purposes of section 401(a)(5) of*
 18 *such Code,*

19 *results in an increase or decrease in accrued liability*
 20 *under a plan, such increase or decrease shall be treat-*
 21 *ed as an experience loss or gain.*

22 *“(5) FUNDING METHOD AND PLAN YEAR.—*

23 *“(A) FUNDING METHODS AVAILABLE.—All*
 24 *funding methods available to CSEC plans under*
 25 *section 302 (as in effect on the day before the en-*

1 *actment of the Pension Protection Act of 2006)*
2 *shall continue to be available under this section.*

3 *“(B) NOT AFFECTED BY CESSATION OF BEN-*
4 *EFIT ACCRUALS.—The availability of any fund-*
5 *ing method, including all spread gain funding*
6 *methods, shall not be affected by whether benefit*
7 *accruals under a plan have ceased. Except as*
8 *otherwise provided in subparagraph (C) or in*
9 *regulations prescribed by the Secretary of the*
10 *Treasury, if benefit accruals have ceased under a*
11 *plan, the spread gain funding methods may be*
12 *applied by amortizing over the average expected*
13 *future lives of all participants.*

14 *“(C) MINIMUM AMOUNT.—In the case of a*
15 *plan amortizing over the average expected future*
16 *lives of all participants pursuant to the second*
17 *sentence of subparagraph (B), such amortization*
18 *amount for any plan year shall not be less than*
19 *the sum of—*

20 *“(i) the amount determined by amor-*
21 *tizing, as of the first year for which the*
22 *plan amortizes over the average future lives*
23 *of all participants, the entire unfunded past*
24 *service liability in equal installments over*
25 *15 years, and*

1 “(ii) the amount determined by amor-
2 tizing any increase or decrease in such un-
3 funded past service liability in any subse-
4 quent year, other than an increase or de-
5 crease attributable to contributions or ex-
6 pected experience, in equal installments over
7 15 years.

8 “(D) CHANGES.—If the funding method for
9 a plan is changed, the new funding method shall
10 become the funding method used to determine
11 costs and liabilities under the plan only if the
12 change is approved by the Secretary of the
13 Treasury. The preceding sentence shall not apply
14 to any change made pursuant to, or permitted
15 by, the second sentence of subparagraph (B) if
16 such change is made for the first plan year be-
17 ginning after December 31, 2013. Any such
18 change may be made without the approval of the
19 Secretary of the Treasury. If the plan year for
20 a plan is changed, the new plan year shall be-
21 come the plan year for the plan only if the
22 change is approved by the Secretary of the
23 Treasury.

24 “(E) APPROVAL REQUIRED FOR CERTAIN
25 CHANGES IN ASSUMPTIONS BY CERTAIN SINGLE-

1 *EMPLOYER PLANS SUBJECT TO ADDITIONAL*
2 *FUNDING REQUIREMENT.—*

3 “(i) *IN GENERAL.—No actuarial as-*
4 *sumption (other than the assumptions de-*
5 *scribed in subsection (h)(3)) used to deter-*
6 *mine the current liability for a plan to*
7 *which this subparagraph applies may be*
8 *changed without the approval of the Sec-*
9 *retary.*

10 “(ii) *PLANS TO WHICH SUBPARAGRAPH*
11 *APPLIES.—This subparagraph shall apply*
12 *to a plan only if—*

13 “(I) *the plan is a CSEC plan,*

14 “(II) *the aggregate unfunded vest-*
15 *ed benefits as of the close of the pre-*
16 *ceding plan year (as determined under*
17 *section 4006(a)(3)(E)(iii)) of such plan*
18 *and all other plans maintained by the*
19 *contributing sponsors (as defined in*
20 *section 4001(a)(13)) and members of*
21 *such sponsors’ controlled groups (as de-*
22 *fined in section 4001(a)(14)) which are*
23 *covered by title IV (disregarding plans*
24 *with no unfunded vested benefits) ex-*
25 *ceed \$50,000,000, and*

1 “(III) the change in assumptions
2 (determined after taking into account
3 any changes in interest rate and mor-
4 tality table) results in a decrease in the
5 funding shortfall of the plan for the
6 current plan year that exceeds
7 \$50,000,000, or that exceeds \$5,000,000
8 and that is 5 percent or more of the
9 current liability of the plan before such
10 change.

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

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

19 “(B) all amounts described in paragraphs
20 (2)(B), (C), and (D) and (3)(B) of subsection (b)
21 which are required to be amortized shall be con-
22 sidered fully amortized for purposes of such
23 paragraphs.

1 “(7) *FULL-FUNDING LIMITATION.*—For purposes
2 of paragraph (6), the term ‘full-funding limitation’
3 means the excess (if any) of—

4 “(A) the accrued liability (including nor-
5 mal cost) under the plan (determined under the
6 entry age normal funding method if such accrued
7 liability cannot be directly calculated under the
8 funding method used for the plan), over

9 “(B) the lesser of—

10 “(i) the fair market value of the plan’s
11 assets, or

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

14 “(C) *MINIMUM AMOUNT.*—

15 “(i) *IN GENERAL.*—In no event shall
16 the full-funding limitation determined
17 under subparagraph (A) be less than the ex-
18 cess (if any) of—

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

1 “(II) *the value of the plan’s assets*
2 *determined under paragraph (2).*

3 “(ii) *ASSETS.—For purposes of clause*
4 *(i), assets shall not be reduced by any credit*
5 *balance in the funding standard account.*

6 “(8) *ANNUAL VALUATION.—*

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

15 “(B) *VALUATION DATE.—*

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

22 “(ii) *USE OF PRIOR YEAR VALU-*
23 *ATION.—The valuation referred to in sub-*
24 *paragraph (A) may be made as of a date*
25 *within the plan year prior to the year to*

1 *which the valuation refers if, as of such*
2 *date, the value of the assets of the plan are*
3 *not less than 100 percent of the plan's cur-*
4 *rent liability.*

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

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

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

20 “(A) *beginning on the day after the last day*
21 *of such plan year, and*

22 “(B) *ending on the day which is 8½*
23 *months after the close of the plan year,*

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

1 “(10) *ANTICIPATION OF BENEFIT INCREASES EF-*
2 *FECTIVE IN THE FUTURE.*—*In determining projected*
3 *benefits, the funding method of a collectively bar-*
4 *gained CSEC plan described in section 413(a) of the*
5 *Internal Revenue Code of 1986 (other than a multi-*
6 *employer plan) shall anticipate benefit increases*
7 *scheduled to take effect during the term of the collec-*
8 *tive bargaining agreement applicable to the plan.*

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

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

20 “(2) *a substantial curtailment of pension benefit*
21 *levels or employee compensation.*

22 “(e) *ALTERNATIVE MINIMUM FUNDING STANDARD.*—

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

1 *normal funding method may maintain an alternative*
2 *minimum funding standard account for any plan*
3 *year. Such account shall be credited and charged sole-*
4 *ly as provided in this subsection.*

5 “(2) *CHARGES AND CREDITS TO ACCOUNT.*—*For*
6 *a plan year the alternative minimum funding stand-*
7 *ard account shall be—*

8 “(A) *charged with the sum of—*

9 “(i) *the lesser of normal cost under the*
10 *funding method used under the plan or nor-*
11 *mal cost determined under the unit credit*
12 *method,*

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

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

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

24 “(3) *SPECIAL RULES.*—*The alternative min-*
25 *imum funding standard account (and items therein)*

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

4 “(f) *QUARTERLY CONTRIBUTIONS REQUIRED.*—

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

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

17 “(B) *the rate of interest used under the plan*
 18 *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*

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

4 “(B) PERIOD OF UNDERPAYMENT.—The pe-
5 riod for which interest is charged under this sub-
6 section with regard to any portion of the under-
7 payment shall run from the due date for the in-
8 stallment to the date on which such portion is
9 contributed to or under the plan (determined
10 without regard to subsection (c)(9)).

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

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

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

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

**“In the case of the following re-
quired 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.*—*For*
2 *purposes of this subsection—*

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

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

9 “(i) *90 percent of the amount required*
10 *to be contributed to or under the plan by*
11 *the employer for the plan year under section*
12 *302 (without regard to any waiver under*
13 *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 short-*

1 *fall exceeds the amount of such installment re-*
2 *quired to be paid but for this paragraph).*

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(d)(6)(A) (as in effect on the day before the*
7 *enactment of the Pension Protection Act of 2006)*
8 *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 in-*
15 *stallment that is treated as not paid under sub-*
16 *paragraph (A) shall continue to be treated as*
17 *unpaid until the close of the quarter in which the*
18 *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 shall*
22 *such increase exceed the amount which, when*
23 *added to prior installments for the plan year, is*
24 *necessary to increase the funded current liability*
25 *percentage (taking into account the expected in-*

1 crease in current liability due to benefits accru-
2 ing during the plan year) to 100 percent.

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

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

13 “(ii) *BASE AMOUNT.*—

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

20 “(II) *SPECIAL RULE.*—If the
21 amount determined under subclause (I)
22 exceeds an amount equal to 2 times the
23 sum of the adjusted disbursements from
24 the plan for the 36 months ending on
25 the last day of the quarter and an en-

1 *rolled actuary certifies to the satisfac-*
2 *tion of the Secretary of the Treasury*
3 *that such excess is the result of non-*
4 *recurring circumstances, the base*
5 *amount with respect to such quarter*
6 *shall be determined without regard to*
7 *amounts related to those nonrecurring*
8 *circumstances.*

9 *“(iii) DISBURSEMENTS FROM THE*
10 *PLAN.—The term ‘disbursements from the*
11 *plan’ means all disbursements from the*
12 *trust, including purchases of annuities,*
13 *payments of single sums and other benefits,*
14 *and administrative expenses.*

15 *“(iv) ADJUSTED DISBURSEMENTS.—*
16 *The term ‘adjusted disbursements’ means*
17 *disbursements from the plan reduced by the*
18 *product of—*

19 *“(I) the plan’s funded current li-*
20 *ability percentage for the plan year,*
21 *and*

22 *“(II) the sum of the purchases of*
23 *annuities, payments of single sums,*
24 *and such other disbursements as the*

1 *Secretary of the Treasury shall provide*
2 *in regulations.*

3 “(v) *LIQUID ASSETS.*—*The term ‘li-*
4 *quid assets’ means cash, marketable securi-*
5 *ties and such other assets as specified by the*
6 *Secretary of the Treasury in regulations.*

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

12 “(F) *REGULATIONS.*—*The Secretary of the*
13 *Treasury may prescribe such regulations as are*
14 *necessary to carry out this paragraph.*

15 “(6) *FISCAL YEARS AND SHORT YEARS.*—

16 “(A) *FISCAL YEARS.*—*In applying this sub-*
17 *section to a plan year beginning on any date*
18 *other than January 1, there shall be substituted*
19 *for the months specified in this subsection, the*
20 *months which correspond thereto.*

21 “(B) *SHORT PLAN YEAR.*—*This subsection*
22 *shall be applied to plan years of less than 12*
23 *months in accordance with regulations pre-*
24 *scribed by the Secretary of the Treasury.*

1 “(g) *IMPOSITION OF LIEN WHERE FAILURE TO MAKE*
2 *REQUIRED CONTRIBUTIONS.*—

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

5 “(A) *any person fails to make a required*
6 *installment under subsection (f) or any other*
7 *payment required under this section before the*
8 *due date for such installment or other payment,*
9 *and*

10 “(B) *the unpaid balance of such installment*
11 *or other payment (including interest), when*
12 *added to the aggregate unpaid balance of all pre-*
13 *ceding such installments or other payments for*
14 *which payment was not made before the due date*
15 *(including interest), exceeds \$1,000,000,*

16 *then there shall be a lien in favor of the plan in the*
17 *amount determined under paragraph (3) upon all*
18 *property and rights to property, whether real or per-*
19 *sonal, belonging to such person and any other person*
20 *who is a member of the same controlled group of*
21 *which such person is a member.*

22 “(2) *PLANS TO WHICH SUBSECTION APPLIES.*—
23 *This subsection shall apply to a CSEC plan for any*
24 *plan year for which the funded current liability per-*
25 *centage of such plan is less than 100 percent. This*

1 *subsection shall not apply to any plan to which sec-*
2 *tion 4021 does not apply (as such section is in effect*
3 *on the date of the enactment of the Retirement Protec-*
4 *tion Act of 1994).*

5 *“(3) AMOUNT OF LIEN.—For purposes of para-*
6 *graph (1), the amount of the lien shall be equal to the*
7 *aggregate unpaid balance of required installments*
8 *and other payments required under this section (in-*
9 *cluding interest)—*

10 *“(A) for plan years beginning after 1987,*

11 *and*

12 *“(B) for which payment has not been made*
13 *before the due date.*

14 *“(4) NOTICE OF FAILURE; LIEN.—*

15 *“(A) NOTICE OF FAILURE.—A person com-*
16 *mitting a failure described in paragraph (1)*
17 *shall notify the Pension Benefit Guaranty Cor-*
18 *poration of such failure within 10 days of the*
19 *due date for the required installment or other*
20 *payment.*

21 *“(B) PERIOD OF LIEN.—The lien imposed*
22 *by paragraph (1) shall arise on the due date for*
23 *the required installment or other payment and*
24 *shall continue until the last day of the first plan*
25 *year in which the plan ceases to be described in*

1 *paragraph (1)(B). Such lien shall continue to*
2 *run without regard to whether such plan con-*
3 *tinues to be described in paragraph (2) during*
4 *the period referred to in the preceding sentence.*

5 “(C) *CERTAIN RULES TO APPLY.—Any*
6 *amount with respect to which a lien is imposed*
7 *under paragraph (1) shall be treated as taxes*
8 *due and owing the United States and rules simi-*
9 *lar to the rules of subsections (c), (d), and (e) of*
10 *section 4068 shall apply with respect to a lien*
11 *imposed by subsection (a) and the amount with*
12 *respect to such lien.*

13 “(5) *ENFORCEMENT.—Any lien created under*
14 *paragraph (1) may be perfected and enforced only by*
15 *the Pension Benefit Guaranty Corporation, or at the*
16 *direction of the Pension Benefit Guaranty Corpora-*
17 *tion, by any contributing employer (or any member*
18 *of the controlled group of the contributing employer).*

19 “(6) *DEFINITIONS.—For purposes of this sub-*
20 *section—*

21 “(A) *DUE DATE; REQUIRED INSTALL-*
22 *MENT.—The terms ‘due date’ and ‘required in-*
23 *stallment’ have the meanings given such terms*
24 *by subsection (f), except that in the case of a*
25 *payment other than a required installment, the*

1 *due date shall be the date such payment is re-*
 2 *quired to be made under this section.*

3 “(B) *CONTROLLED GROUP.*—*The term ‘con-*
 4 *trolled group’ means any group treated as a sin-*
 5 *gle employer under subsections (b), (c), (m), and*
 6 *(o) of section 414 of the Internal Revenue Code*
 7 *of 1986.*

8 “(h) *CURRENT LIABILITY.*—*For purposes of this sec-*
 9 *tion—*

10 “(1) *IN GENERAL.*—*The term ‘current liability’*
 11 *means all liabilities to employees and their bene-*
 12 *ficiaries under the plan.*

13 “(2) *TREATMENT OF UNPREDICTABLE CONTIN-*
 14 *GENE EVENT BENEFITS.*—

15 “(A) *IN GENERAL.*—*For purposes of para-*
 16 *graph (1), any unpredictable contingent event*
 17 *benefit shall not be taken into account until the*
 18 *event on which the benefit is contingent occurs.*

19 “(B) *UNPREDICTABLE CONTINGENT EVENT*
 20 *BENEFIT.*—*The term ‘unpredictable contingent*
 21 *event benefit’ means any benefit contingent on*
 22 *an event other than—*

23 “(i) *age, service, compensation, death,*
 24 *or disability, or*

1 “(ii) an event which is reasonably and
2 reliably predictable (as determined by the
3 Secretary of the Treasury).

4 “(3) *INTEREST RATE AND MORTALITY ASSUMP-*
5 *TIONS USED.*—

6 “(A) *INTEREST RATE.*—*The rate of interest*
7 *used to determine current liability under this*
8 *section shall be the third segment rate deter-*
9 *mined under section 303(h)(2)(C).*

10 “(B) *MORTALITY TABLES.*—

11 “(i) *SECRETARIAL AUTHORITY.*—*The*
12 *Secretary of the Treasury may by regula-*
13 *tion prescribe mortality tables to be used in*
14 *determining current liability under this*
15 *subsection. Such tables shall be based upon*
16 *the actual experience of pension plans and*
17 *projected trends in such experience. In pre-*
18 *scribing such tables, the Secretary of the*
19 *Treasury shall take into account results of*
20 *available independent studies of mortality*
21 *of individuals covered by pension plans.*

22 “(ii) *PERIODIC REVIEW.*—*The Sec-*
23 *retary of the Treasury shall periodically (at*
24 *least every 5 years) review any tables in ef-*
25 *fect under this subsection and shall, to the*

1 *extent the Secretary of the Treasury deter-*
2 *mines necessary, by regulation update the*
3 *tables to reflect the actual experience of pen-*
4 *sion plans and projected trends in such ex-*
5 *perience.*

6 “(C) *SEPARATE MORTALITY TABLES FOR*
7 *THE DISABLED.—Notwithstanding subparagraph*
8 *(B)—*

9 “(i) *IN GENERAL.—In the case of plan*
10 *years beginning after December 31, 1995,*
11 *the Secretary of the Treasury shall establish*
12 *mortality tables which may be used (in lieu*
13 *of the tables under subparagraph (B)) to de-*
14 *termine current liability under this sub-*
15 *section for individuals who are entitled to*
16 *benefits under the plan on account of dis-*
17 *ability. The Secretary of the Treasury shall*
18 *establish separate tables for individuals*
19 *whose disabilities occur in plan years begin-*
20 *ning before January 1, 1995, and for indi-*
21 *viduals whose disabilities occur in plan*
22 *years beginning on or after such date.*

23 “(ii) *SPECIAL RULE FOR DISABILITIES*
24 *OCCURRING AFTER 1994.—In the case of dis-*
25 *abilities occurring in plan years beginning*

1 *after December 31, 1994, the tables under*
 2 *clause (i) shall apply only with respect to*
 3 *individuals described in such subclause who*
 4 *are disabled within the meaning of title II*
 5 *of the Social Security Act and the regula-*
 6 *tions thereunder.*

7 “(4) *CERTAIN SERVICE DISREGARDED.—*

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

14 “(B) *APPLICABLE PERCENTAGE.—For pur-*
 15 *poses of this subparagraph, the applicable per-*
 16 *centage shall be determined as follows:*

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

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

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

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

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

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

16 “(i) *FUNDED CURRENT LIABILITY PERCENTAGE*.—For
17 purposes of this section, the term ‘funded current liability
18 percentage’ means, with respect to any plan year, the per-
19 centage which—

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

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

23 “(j) *TRANSITION*.—The Secretary of the Treasury may
24 prescribe such rules as are necessary or appropriate with

1 *respect to the transition of a CSEC plan from the applica-*
 2 *tion of section 303 to the application of this section.”.*

3 (2) *SEPARATE RULES FOR CSEC PLANS.—*

4 (A) *IN GENERAL.—Paragraph (2) of section*
 5 *302(a) of the Employee Retirement Income Secu-*
 6 *rity Act of 1974 (29 U.S.C. 1082(a)) is amended*
 7 *by striking “and” at the end of subparagraph*
 8 *(B), by striking the period at the end of subpara-*
 9 *graph (C) and inserting “, and”, and by insert-*
 10 *ing at the end thereof the following new subpara-*
 11 *graph:*

12 *“(D) in the case of a CSEC plan, the em-*
 13 *ployers make contributions to or under the plan*
 14 *for any plan year which, in the aggregate, are*
 15 *sufficient to ensure that the plan does not have*
 16 *an accumulated funding deficiency under section*
 17 *306 as of the end of the plan year.”.*

18 (B) *CONFORMING AMENDMENTS.—Section*
 19 *302 of the Employee Retirement Income Security*
 20 *Act of 1974 (29 U.S.C. 1082) is amended—*

21 (i) *by striking “multiemployer plan”*
 22 *the first place it appears in clause (i) of*
 23 *subsection (c)(1)(A) and the last place it*
 24 *appears in paragraph (2) of subsection (d),*

1 and inserting “multiemployer plan or a
2 CSEC plan”,

3 (ii) by striking “303(j)” in paragraph
4 (1) of subsection (b) and inserting “303(j)
5 or under 306(f)”,

6 (iii)(I) by striking “and” at the end of
7 clause (i) of subsection (c)(1)(B),

8 (II) by striking the period at the end
9 of clause (ii) of subsection (c)(1)(B), and
10 inserting “, and”, and

11 (III) by inserting the following new
12 clause after clause (ii) of subsection
13 (c)(1)(B):

14 “(iii) in the case of a CSEC plan, the
15 funding standard account shall be credited
16 under section 306(b)(3)(C) with the amount
17 of the waived funding deficiency and such
18 amount shall be amortized as required
19 under section 306(b)(2)(C).”

20 (iv) by striking “under paragraph (1)”
21 in clause (i) of subsection (c)(4)(A) and in-
22 serting “under paragraph (1) or for grant-
23 ing an extension under section 306(d)”,

24 (v) by striking “waiver under this sub-
25 section” in subparagraph (B) of subsection

1 (c)(4) and inserting “waiver under this sub-
2 section or an extension under 306(d)”,

3 (vi) by striking “waiver or modifica-
4 tion” in subclause (I) of subsection
5 (c)(4)(B)(i) and inserting “waiver, modi-
6 fication, or extension”,

7 (vii) by striking “waivers” in the
8 heading of subsection (c)(4)(C) and of
9 clause (ii) of subsection (c)(4)(C) and in-
10 serting “waivers or extensions”,

11 (viii) by striking “section 304(d)” in
12 subparagraph (A) of subsection (c)(7) and
13 in paragraph (2) of subsection (d) and in-
14 serting “section 304(d) or section 306(d)”,

15 (ix) by striking “and” at the end of
16 subclause (I) of subsection (c)(4)(C)(i) and
17 adding “or the accumulated funding defi-
18 ciency under section 306, whichever is ap-
19 plicable,”

20 (x) by striking “303(e)(2),” in sub-
21 clause (II) of subsection (c)(4)(C)(i) and in-
22 serting “303(e)(2) or 306(b)(2)(C), which-
23 ever is applicable, and”,

1 (xi) by adding immediately after sub-
2 clause (II) of subsection (c)(4)(C)(i) the fol-
3 lowing new subclause:

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

7 (xii) by striking “for waivers of” in
8 clause (ii) of subsection (c)(4)(C) and in-
9 serting “for waivers or extensions with re-
10 spect to”, and

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

16 (3) *BENEFIT RESTRICTIONS.*—

17 (A) *IN GENERAL.*—Subsection (g) of section
18 206 of the *Employee Retirement Income Security*
19 *Act of 1974 (29 U.S.C. 1056)* is amended by
20 adding at the end thereof the following new
21 paragraph:

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

1 (B) *EFFECTIVE DATE.*—Any restriction
2 under section 206(g) of the *Employee Retirement*
3 *Income Security Act of 1974* that is in effect
4 with respect to a CSEC plan as of the last day
5 of the last plan year beginning before January
6 1, 2014, shall cease to apply as of the first day
7 of the following plan year.

8 (4) *BENEFIT INCREASES.*—Paragraph (3) of sec-
9 tion 204(i) of the *Employee Retirement Income Secu-*
10 *rity Act of 1974* (29 U.S.C. 1054(i)) is amended by
11 striking “multiemployer plans” and inserting “multi-
12 employer plans or CSEC plans”.

13 (5) *SECTION 103.*—Subparagraph (B) of section
14 103(d)(8) of the *Employee Retirement Income Secu-*
15 *rity Act of 1974* (29 U.S.C. 1023(d)(8)) is amended
16 by striking “303(h) and 304(c)(3)” and inserting
17 “303(h), 304(c)(3), and 306(c)(3)”.

18 (6) *SECTION 4003.*—Subparagraph (B) of section
19 4003(e)(1) of the *Employee Retirement Income Secu-*
20 *rity Act of 1974* (29 U.S.C. 1303(e)(1)) is amended
21 by striking “303(k)(1)(A) and (B) of this Act or sec-
22 tion 430(k)(1)(A) and (B) of the *Internal Revenue*
23 *Code of 1986*” and inserting “303(k)(1)(A) and (B)
24 or 306(g)(1)(A) and (B) of this Act or section

1 430(k)(1)(A) and (B) or 433(g)(1)(A) and (B) of the
2 Internal Revenue Code of 1986”.

3 (7) SECTION 4010.—Paragraph (2) of section
4 4010(b) of the Employee Retirement Income Security
5 Act of 1974 (29 U.S.C. 1310(b)) is amended by strik-
6 ing “303(k)(1)(A) and (B) of this Act or section
7 430(k)(1)(A) and (B) of the Internal Revenue Code of
8 1986” and inserting “303(k)(1)(A) and (B) or
9 306(g)(1)(A) and (B) of this Act or section
10 430(k)(1)(A) and (B) or 433(g)(1)(A) and (B) of the
11 Internal Revenue Code of 1986”.

12 (8) SECTION 4071.—Section 4071 of the Em-
13 ployee Retirement Income Security Act of 1974 (29
14 U.S.C. 1371) is amended by striking “section
15 303(k)(4)” and inserting “section 303(k)(4) or
16 306(g)(4)”.

17 (b) AMENDMENTS TO CODE.—

18 (1) MINIMUM FUNDING STANDARDS UNDER THE
19 INTERNAL REVENUE CODE.—Subpart A of part III of
20 subchapter D of chapter 1 of subtitle A of the Internal
21 Revenue Code of 1986 is amended by adding at the
22 end the following new section:

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

24 “(a) GENERAL RULE.—For purposes of section 412,
25 the term ‘accumulated funding deficiency’ for a CSEC plan

1 *means the excess of the total charges to the funding standard*
2 *account for all plan years (beginning with the first plan*
3 *year to which section 412 applies) over the total credits to*
4 *such account for such years or, if less, the excess of the total*
5 *charges to the alternative minimum funding standard ac-*
6 *count for such plan years over the total credits to such ac-*
7 *count for such years.*

8 “(b) *FUNDING STANDARD ACCOUNT.*—

9 “(1) *ACCOUNT REQUIRED.*—*Each plan to which*
10 *this section applies shall establish and maintain a*
11 *funding standard account. Such account shall be cred-*
12 *ited and charged solely as provided in this section.*

13 “(2) *CHARGES TO ACCOUNT.*—*For a plan year,*
14 *the funding standard account shall be charged with*
15 *the sum of—*

16 “(A) *the normal cost of the plan for the*
17 *plan year,*

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

21 “(i) *in the case of a plan in existence*
22 *on January 1, 1974, the unfunded past*
23 *service liability under the plan on the first*
24 *day of the first plan year to which section*
25 *412 applies, over a period of 40 plan years,*

1 “(ii) in the case of a plan which comes
2 into existence after January 1, 1974, but
3 before the first day of the first plan year be-
4 ginning after December 31, 2013, the un-
5 funded past service liability under the plan
6 on the first day of the first plan year to
7 which section 412 applies, over a period of
8 30 plan years,

9 “(iii) in the case of a plan that is sub-
10 ject to section 430 for the last plan year be-
11 ginning before January 1, 2014, the sum
12 of—

13 “(I) the plan’s funding standard
14 carryover balance and prefunding bal-
15 ance (as such terms are defined in sec-
16 tion 430(f)) as of the end of such plan
17 year, and

18 “(II) the unfunded past service li-
19 ability under the plan for the first
20 plan year beginning after December
21 31, 2013,

22 over a period of 15 years,

23 “(iv) separately, with respect to each
24 plan year, the net increase (if any) in un-
25 funded past service liability under the plan

1 *arising from plan amendments adopted in*
2 *such year, over a period of 15 plan years,*

3 *“(v) separately, with respect to each*
4 *plan year, the net experience loss (if any)*
5 *under the plan, over a period of 5 plan*
6 *years, and*

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

12 *“(C) the amount necessary to amortize each*
13 *waived funding deficiency (within the meaning*
14 *of section 412(c)(3)) for each prior plan year in*
15 *equal annual installments (until fully amor-*
16 *tized) over a period of 5 plan years,*

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

22 *“(E) the amount necessary to amortize in*
23 *equal annual installments (until fully amor-*
24 *tized) over a period of 20 years the contributions*
25 *which would be required to be made under the*

1 *plan but for the provisions of section*
2 *412(c)(7)(A)(i)(I) (as in effect on the day before*
3 *the enactment of the Pension Protection Act of*
4 *2006).*

5 “(3) *CREDITS TO ACCOUNT.—For a plan year,*
6 *the funding standard account shall be credited with*
7 *the sum of—*

8 “(A) *the amount considered contributed by*
9 *the employer to or under the plan for the plan*
10 *year,*

11 “(B) *the amount necessary to amortize in*
12 *equal annual installments (until fully amor-*
13 *tized)—*

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

19 “(ii) *separately, with respect to each*
20 *plan year, the net experience gain (if any)*
21 *under the plan, over a period of 5 plan*
22 *years, and*

23 “(iii) *separately, with respect to each*
24 *plan year, the net gain (if any) resulting*
25 *from changes in actuarial assumptions used*

1 *under the plan, over a period of 10 plan*
2 *years,*

3 “(C) *the amount of the waived funding defi-*
4 *ciency (within the meaning of section 412(c)(3))*
5 *for the plan year,*

6 “(D) *in the case of a plan year for which*
7 *the accumulated funding deficiency is deter-*
8 *mined under the funding standard account if*
9 *such plan year follows a plan year for which*
10 *such deficiency was determined under the alter-*
11 *native minimum funding standard, the excess (if*
12 *any) of any debit balance in the funding stand-*
13 *ard account (determined without regard to this*
14 *subparagraph) over any debit balance in the al-*
15 *ternative minimum funding standard account,*
16 *and*

17 “(E) *for the first plan year beginning after*
18 *December 31, 2013, in the case of a plan that is*
19 *subject to section 430 for the last plan year be-*
20 *ginning before January 1, 2014, the sum of the*
21 *plan’s funding standard carryover balance and*
22 *prefunding balance (as such terms are defined in*
23 *section 430(f)) as of the end of the last plan year*
24 *beginning before January 1, 2014.*

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

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

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

18 “(5) *INTEREST.*—

19 “(A) Except as provided in subparagraph
20 (B), the funding standard account (and items
21 therein) shall be charged or credited (as deter-
22 mined under regulations prescribed by the Sec-
23 retary) with interest at the appropriate rate con-
24 sistent with the rate or rates of interest used
25 under the plan to determine costs.

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

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

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

11 “(6) *AMORTIZATION SCHEDULES IN EFFECT.—*
12 *Amortization schedules for amounts described in*
13 *paragraphs (2) and (3) that are in effect as of the last*
14 *day of the last plan year beginning before January*
15 *1, 2014, by reason of section 104 of the Pension Pro-*
16 *tection Act of 2006 shall remain in effect pursuant to*
17 *their terms and this section, except that such amounts*
18 *shall not be amortized again under this section. In*
19 *the case of a plan that is subject to section 430 for*
20 *the last plan year beginning before January 1, 2014,*
21 *any amortization schedules and bases for plan years*
22 *beginning before such date shall be reduced to zero.*

23 “(c) *SPECIAL RULES.—*

24 “(1) *DETERMINATIONS TO BE MADE UNDER*
25 *FUNDING METHOD.—For purposes of this section, nor-*

1 *mal costs, accrued liability, past service liabilities,*
2 *and experience gains and losses shall be determined*
3 *under the funding method used to determine costs*
4 *under the plan.*

5 *“(2) VALUATION OF ASSETS.—*

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

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

19 *“(3) ACTUARIAL ASSUMPTIONS MUST BE REA-*
20 *SONABLE.—For purposes of this section, all costs, li-*
21 *abilities, rates of interest, and other factors under the*
22 *plan shall be determined on the basis of actuarial as-*
23 *sumptions and methods—*

24 *“(A) each of which is reasonable (taking*
25 *into account the experience of the plan and rea-*

1 sonable expectations) or which, in the aggregate,
 2 result in a total contribution equivalent to that
 3 which would be determined if each such assump-
 4 tion and method were reasonable, and

5 “(B) which, in combination, offer the actu-
 6 ary’s best estimate of anticipated experience
 7 under the plan.

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

11 “(A) a change in benefits under the Social
 12 Security Act or in other retirement benefits cre-
 13 ated under Federal or State law, or

14 “(B) a change in the definition of the term
 15 ‘wages’ under section 3121 or a change in the
 16 amount of such wages taken into account under
 17 regulations prescribed for purposes of section
 18 401(a)(5),

19 results in an increase or decrease in accrued liability
 20 under a plan, such increase or decrease shall be treat-
 21 ed as an experience loss or gain.

22 “(5) *FUNDING METHOD AND PLAN YEAR.*—

23 “(A) *FUNDING METHODS AVAILABLE.*—All
 24 funding methods available to CSEC plans under
 25 section 412 (as in effect on the day before the en-

1 *actment of the Pension Protection Act of 2006)*
2 *shall continue to be available under this section.*

3 *“(B) NOT AFFECTED BY CESSATION OF BEN-*
4 *EFIT ACCRUALS.—The availability of any fund-*
5 *ing method, including all spread gain funding*
6 *methods, shall not be affected by whether benefit*
7 *accruals under a plan have ceased. Except as*
8 *otherwise provided in subparagraph (C) or in*
9 *regulations prescribed by the Secretary, if benefit*
10 *accruals have ceased under a plan, the spread*
11 *gain funding methods may be applied by amor-*
12 *tizing over the average expected future lives of all*
13 *participants.*

14 *“(C) MINIMUM AMOUNT.—In the case of a*
15 *plan amortizing over the average expected future*
16 *lives of all participants pursuant to the second*
17 *sentence of subparagraph (B), such amortization*
18 *amount for any plan year shall not be less than*
19 *the sum of—*

20 *“(i) the amount determined by amor-*
21 *tizing, as of the first year for which the*
22 *plan amortizes over the average future lives*
23 *of all participants, the entire unfunded past*
24 *service liability in equal installments over*
25 *15 years, and*

1 “(ii) the amount determined by amor-
2 tizing any increase or decrease in such un-
3 funded past service liability in any subse-
4 quent year, other than an increase or de-
5 crease attributable to contributions or ex-
6 pected experience, in equal installments over
7 15 years.

8 “(D) CHANGES.—If the funding method for
9 a plan is changed, the new funding method shall
10 become the funding method used to determine
11 costs and liabilities under the plan only if the
12 change is approved by the Secretary. The pre-
13 ceding sentence shall not apply to any change
14 made pursuant to, or permitted by, the second
15 sentence of subparagraph (B) if such change is
16 made for the first plan year beginning after De-
17 cember 31, 2013. Any such change may be made
18 without the approval of the Secretary. If the
19 plan year for a plan is changed, the new plan
20 year shall become the plan year for the plan only
21 if the change is approved by the Secretary.

22 “(E) APPROVAL REQUIRED FOR CERTAIN
23 CHANGES IN ASSUMPTIONS BY CERTAIN SINGLE-
24 EMPLOYER PLANS SUBJECT TO ADDITIONAL
25 FUNDING REQUIREMENT.—

1 “(i) *IN GENERAL.*—No actuarial as-
2 *sumption (other than the assumptions de-*
3 *scribed in subsection (h)(3)) used to deter-*
4 *mine the current liability for a plan to*
5 *which this subparagraph applies may be*
6 *changed without the approval of the Sec-*
7 *retary.*

8 “(ii) *PLANS TO WHICH SUBPARAGRAPH*
9 *APPLIES.*—*This subparagraph shall apply*
10 *to a plan only if—*

11 “(I) *the plan is a CSEC plan,*

12 “(II) *the aggregate unfunded vest-*
13 *ed benefits as of the close of the pre-*
14 *ceding plan year (as determined under*
15 *section 4006(a)(3)(E)(iii) of the Em-*
16 *ployee Retirement Income Security Act*
17 *of 1974) of such plan and all other*
18 *plans maintained by the contributing*
19 *sponsors (as defined in section*
20 *4001(a)(13) of such Act) and members*
21 *of such sponsors’ controlled groups (as*
22 *defined in section 4001(a)(14) of such*
23 *Act) which are covered by title IV (dis-*
24 *regarding plans with no unfunded*
25 *vested benefits) exceed \$50,000,000, and*

1 “(III) the change in assumptions
2 (determined after taking into account
3 any changes in interest rate and mor-
4 tality table) results in a decrease in the
5 funding shortfall of the plan for the
6 current plan year that exceeds
7 \$50,000,000, or that exceeds \$5,000,000
8 and that is 5 percent or more of the
9 current liability of the plan before such
10 change.

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

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

19 “(B) all amounts described in paragraphs
20 (2)(B), (C), and (D) and (3)(B) of subsection (b)
21 which are required to be amortized shall be con-
22 sidered fully amortized for purposes of such
23 paragraphs.

1 “(7) *FULL-FUNDING LIMITATION.*—For purposes
2 of paragraph (6), the term ‘full-funding limitation’
3 means the excess (if any) of—

4 “(A) the accrued liability (including nor-
5 mal cost) under the plan (determined under the
6 entry age normal funding method if such accrued
7 liability cannot be directly calculated under the
8 funding method used for the plan), over

9 “(B) the lesser of—

10 “(i) the fair market value of the plan’s
11 assets, or

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

14 “(C) *MINIMUM AMOUNT.*—

15 “(i) *IN GENERAL.*—In no event shall
16 the full-funding limitation determined
17 under subparagraph (A) be less than the ex-
18 cess (if any) of—

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

1 “(II) *the value of the plan’s assets*
2 *determined under paragraph (2).*

3 “(ii) *ASSETS.—For purposes of clause*
4 *(i), assets shall not be reduced by any credit*
5 *balance in the funding standard account.*

6 “(8) *ANNUAL VALUATION.—*

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

15 “(B) *VALUATION DATE.—*

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

22 “(ii) *USE OF PRIOR YEAR VALU-*
23 *ATION.—The valuation referred to in sub-*
24 *paragraph (A) may be made as of a date*
25 *within the plan year prior to the year to*

1 *which the valuation refers if, as of such*
2 *date, the value of the assets of the plan are*
3 *not less than 100 percent of the plan's cur-*
4 *rent liability.*

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

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

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

20 “(A) *beginning on the day after the last day*
21 *of such plan year, and*

22 “(B) *ending on the day which is 8½*
23 *months after the close of the plan year,*

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

1 “(10) *ANTICIPATION OF BENEFIT INCREASES EF-*
2 *FECTIVE IN THE FUTURE.*—*In determining projected*
3 *benefits, the funding method of a collectively bar-*
4 *gained CSEC plan described in section 413(a) (other*
5 *than a multiemployer plan) shall anticipate benefit*
6 *increases scheduled to take effect during the term of*
7 *the collective bargaining agreement applicable to the*
8 *plan.*

9 “(d) *EXTENSION OF AMORTIZATION PERIODS.*—*The*
10 *period of years required to amortize any unfunded liability*
11 *(described in any clause of subsection (b)(2)(B)) of any*
12 *plan may be extended by the Secretary of Labor for a period*
13 *of time (not in excess of 10 years) if such Secretary deter-*
14 *mines that such extension would carry out the purposes of*
15 *the Employee Retirement Income Security Act of 1974 and*
16 *provide adequate protection for participants under the*
17 *plan, and their beneficiaries and if such Secretary deter-*
18 *mines that the failure to permit such extension would result*
19 *in—*

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

22 “(2) *a substantial curtailment of pension benefit*
23 *levels or employee compensation.*

24 “(e) *ALTERNATIVE MINIMUM FUNDING STANDARD.*—

1 “(1) *IN GENERAL.*—A CSEC plan which uses a
2 *funding method that requires contributions in all*
3 *years not less than those required under the entry age*
4 *normal funding method may maintain an alternative*
5 *minimum funding standard account for any plan*
6 *year. Such account shall be credited and charged sole-*
7 *ly as provided in this subsection.*

8 “(2) *CHARGES AND CREDITS TO ACCOUNT.*—For
9 *a plan year the alternative minimum funding stand-*
10 *ard account shall be—*

11 “(A) *charged with the sum of—*

12 “(i) *the lesser of normal cost under the*
13 *funding method used under the plan or nor-*
14 *mal cost determined under the unit credit*
15 *method,*

16 “(ii) *the excess, if any, of the present*
17 *value of accrued benefits under the plan*
18 *over the fair market value of the assets, and*

19 “(iii) *an amount equal to the excess (if*
20 *any) of credits to the alternative minimum*
21 *standard account for all prior plan years*
22 *over charges to such account for all such*
23 *years, and*

1 “(B) credited with the amount considered
2 contributed by the employer to or under the plan
3 for the plan year.

4 “(3) SPECIAL RULES.—The alternative min-
5 imum funding standard account (and items therein)
6 shall be charged or credited with interest in the man-
7 ner provided under subsection (b)(5) with respect to
8 the funding standard account.

9 “(f) QUARTERLY CONTRIBUTIONS REQUIRED.—

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

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

21 “(B) the rate of interest used under the plan
22 in determining costs.

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

1 “(A) *AMOUNT.*—*The amount of the under-*
2 *payment shall be the excess of—*

3 “(i) *the required installment, over*

4 “(ii) *the amount (if any) of the install-*
5 *ment contributed to or under the plan on or*
6 *before the due date for the installment.*

7 “(B) *PERIOD OF UNDERPAYMENT.*—*The pe-*
8 *riod for which interest is charged under this sub-*
9 *section with regard to any portion of the under-*
10 *payment shall run from the due date for the in-*
11 *stallment to the date on which such portion is*
12 *contributed to or under the plan (determined*
13 *without regard to subsection (c)(9)).*

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

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

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

24 “(B) *TIME FOR PAYMENT OF INSTALL-*
25 *MENTS.*—

***“In the case of the following re-
quired installments:***

The due date is:

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

1 *“(4) AMOUNT OF REQUIRED INSTALLMENT.—For*
 2 *purposes of this subsection—*

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

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

9 *“(i) 90 percent of the amount required*
 10 *to be contributed to or under the plan by*
 11 *the employer for the plan year under section*
 12 *412 (without regard to any waiver under*
 13 *subsection (c) thereof), or*

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

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

18 *“(5) LIQUIDITY REQUIREMENT.—*

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

1 *paid in such installment is less than the liquid-*
2 *ity shortfall (whether or not such liquidity short-*
3 *fall exceeds the amount of such installment re-*
4 *quired to be paid but for this paragraph).*

5 “(B) *PLANS TO WHICH PARAGRAPH AP-*
6 *PLIES.—This paragraph shall apply to a CSEC*
7 *plan other than a plan described in section*
8 *412(l)(6)(A) (as in effect on the day before the*
9 *enactment of the Pension Protection Act of 2006)*
10 *which—*

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

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

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

21 “(D) *LIMITATION ON INCREASE.—If the*
22 *amount of any required installment is increased*
23 *by reason of subparagraph (A), in no event shall*
24 *such increase exceed the amount which, when*
25 *added to prior installments for the plan year, is*

1 *necessary to increase the funded current liability*
2 *percentage (taking into account the expected in-*
3 *crease in current liability due to benefits accru-*
4 *ing during the plan year) to 100 percent.*

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

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

15 “(ii) *BASE AMOUNT.*—

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

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

1 the plan for the 36 months ending on
2 the last day of the quarter and an en-
3 rolled actuary certifies to the satisfac-
4 tion of the Secretary that such excess is
5 the result of nonrecurring cir-
6 cumstances, the base amount with re-
7 spect to such quarter shall be deter-
8 mined without regard to amounts re-
9 lated to those nonrecurring cir-
10 cumstances.

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

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

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

24 “(II) the sum of the purchases of
25 annuities, payments of single sums,

1 *and such other disbursements as the*
2 *Secretary shall provide in regulations.*

3 “(v) *LIQUID ASSETS.*—*The term ‘li-*
4 *quid assets’ means cash, marketable securi-*
5 *ties and such other assets as specified by the*
6 *Secretary in regulations.*

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

12 “(F) *REGULATIONS.*—*The Secretary may*
13 *prescribe such regulations as are necessary to*
14 *carry out this paragraph.*

15 “(6) *FISCAL YEARS AND SHORT YEARS.*—

16 “(A) *FISCAL YEARS.*—*In applying this sub-*
17 *section to a plan year beginning on any date*
18 *other than January 1, there shall be substituted*
19 *for the months specified in this subsection, the*
20 *months which correspond thereto.*

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

1 “(g) *IMPOSITION OF LIEN WHERE FAILURE TO MAKE*
2 *REQUIRED CONTRIBUTIONS.*—

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

5 “(A) *any person fails to make a required*
6 *installment under subsection (f) or any other*
7 *payment required under this section before the*
8 *due date for such installment or other payment,*
9 *and*

10 “(B) *the unpaid balance of such installment*
11 *or other payment (including interest), when*
12 *added to the aggregate unpaid balance of all pre-*
13 *ceding such installments or other payments for*
14 *which payment was not made before the due date*
15 *(including interest), exceeds \$1,000,000,*

16 *then there shall be a lien in favor of the plan in the*
17 *amount determined under paragraph (3) upon all*
18 *property and rights to property, whether real or per-*
19 *sonal, belonging to such person and any other person*
20 *who is a member of the same controlled group of*
21 *which such person is a member.*

22 “(2) *PLANS TO WHICH SUBSECTION APPLIES.*—
23 *This subsection shall apply to a CSEC plan for any*
24 *plan year for which the funded current liability per-*
25 *centage of such plan is less than 100 percent. This*

1 subsection shall not apply to any plan to which sec-
2 tion 4021 of the Employee Retirement Income Secu-
3 rity Act of 1974 does not apply (as such section is in
4 effect on the date of the enactment of the Retirement
5 Protection Act of 1994).

6 “(3) AMOUNT OF LIEN.—For purposes of para-
7 graph (1), the amount of the lien shall be equal to the
8 aggregate unpaid balance of required installments
9 and other payments required under this section (in-
10 cluding interest)—

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

12 and

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

15 “(4) NOTICE OF FAILURE; LIEN.—

16 “(A) NOTICE OF FAILURE.—A person com-
17 mitting a failure described in paragraph (1)
18 shall notify the Pension Benefit Guaranty Cor-
19 poration of such failure within 10 days of the
20 due date for the required installment or other
21 payment.

22 “(B) PERIOD OF LIEN.—The lien imposed
23 by paragraph (1) shall arise on the due date for
24 the required installment or other payment and
25 shall continue until the last day of the first plan

1 *year in which the plan ceases to be described in*
2 *paragraph (1)(B). Such lien shall continue to*
3 *run without regard to whether such plan con-*
4 *tinues to be described in paragraph (2) during*
5 *the period referred to in the preceding sentence.*

6 “(C) *CERTAIN RULES TO APPLY.—Any*
7 *amount with respect to which a lien is imposed*
8 *under paragraph (1) shall be treated as taxes*
9 *due and owing the United States and rules simi-*
10 *lar to the rules of subsections (c), (d), and (e) of*
11 *section 4068 of the Employee Retirement Income*
12 *Security Act of 1974 shall apply with respect to*
13 *a lien imposed by subsection (a) and the amount*
14 *with respect to such lien.*

15 “(5) *ENFORCEMENT.—Any lien created under*
16 *paragraph (1) may be perfected and enforced only by*
17 *the Pension Benefit Guaranty Corporation, or at the*
18 *direction of the Pension Benefit Guaranty Corpora-*
19 *tion, by any contributing employer (or any member*
20 *of the controlled group of the contributing employer).*

21 “(6) *DEFINITIONS.—For purposes of this sub-*
22 *section—*

23 “(A) *DUE DATE; REQUIRED INSTALL-*
24 *MENT.—The terms ‘due date’ and ‘required in-*
25 *stallment’ have the meanings given such terms*

1 by subsection (f), except that in the case of a
 2 payment other than a required installment, the
 3 due date shall be the date such payment is re-
 4 quired to be made under this section.

5 “(B) CONTROLLED GROUP.—The term ‘con-
 6 trolled group’ means any group treated as a sin-
 7 gle employer under subsections (b), (c), (m), and
 8 (o) of section 414.

9 “(h) CURRENT LIABILITY.—For purposes of this sec-
 10 tion—

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

14 “(2) TREATMENT OF UNPREDICTABLE CONTIN-
 15 GENT EVENT BENEFITS.—

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

20 “(B) UNPREDICTABLE CONTINGENT EVENT
 21 BENEFIT.—The term ‘unpredictable contingent
 22 event benefit’ means any benefit contingent on
 23 an event other than—

24 “(i) age, service, compensation, death,
 25 or disability, or

1 “(ii) an event which is reasonably and
2 reliably predictable (as determined by the
3 Secretary).

4 “(3) *INTEREST RATE AND MORTALITY ASSUMP-*
5 *TIONS USED.*—

6 “(A) *INTEREST RATE.*—*The rate of interest*
7 *used to determine current liability under this*
8 *section shall be the third segment rate deter-*
9 *mined under section 430(h)(2)(C).*

10 “(B) *MORTALITY TABLES.*—

11 “(i) *SECRETARIAL AUTHORITY.*—*The*
12 *Secretary may by regulation prescribe mor-*
13 *tality tables to be used in determining cur-*
14 *rent liability under this subsection. Such*
15 *tables shall be based upon the actual experi-*
16 *ence of pension plans and projected trends*
17 *in such experience. In prescribing such ta-*
18 *bles, the Secretary shall take into account*
19 *results of available independent studies of*
20 *mortality of individuals covered by pension*
21 *plans.*

22 “(ii) *PERIODIC REVIEW.*—*The Sec-*
23 *retary shall periodically (at least every 5*
24 *years) review any tables in effect under this*
25 *subsection and shall, to the extent the Sec-*

1 retary determines necessary, by regulation
2 update the tables to reflect the actual experi-
3 ence of pension plans and projected trends
4 in such experience.

5 “(C) *SEPARATE MORTALITY TABLES FOR*
6 *THE DISABLED.*—Notwithstanding subparagraph
7 (B)—

8 “(i) *IN GENERAL.*—In the case of plan
9 years beginning after December 31, 1995,
10 the Secretary shall establish mortality tables
11 which may be used (in lieu of the tables
12 under subparagraph (B)) to determine cur-
13 rent liability under this subsection for indi-
14 viduals who are entitled to benefits under
15 the plan on account of disability. The Sec-
16 retary shall establish separate tables for in-
17 dividuals 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 dis-
24 abilities occurring in plan years beginning
25 after December 31, 1994, the tables under

1 *clause (i) shall apply only with respect to*
 2 *individuals described in such subclause who*
 3 *are disabled within the meaning of title II*
 4 *of the Social Security Act and the regula-*
 5 *tions thereunder.*

6 “(4) *CERTAIN SERVICE DISREGARDED.*—

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

13 “(B) *APPLICABLE PERCENTAGE.*—*For pur-*
 14 *poses of this subparagraph, the applicable per-*
 15 *centage shall be determined as follows:*

<i>If the years of participation are:</i>	<i>The applicable percent- age is:</i>
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.*

14 *“(i) FUNDED CURRENT LIABILITY PERCENTAGE.—For*
 15 *purposes of this section, the term ‘funded current liability*
 16 *percentage’ means, with respect to any plan year, the per-*
 17 *centage 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 may prescribe such*
 22 *rules as are necessary or appropriate with respect to the*
 23 *transition of a CSEC plan from the application of section*
 24 *430 to the application of this section.”.*

25 *(2) SEPARATE RULES FOR CSEC PLANS.—*

1 (A) *IN GENERAL.*—Paragraph (2) of section
2 412(a) of the Internal Revenue Code of 1986 is
3 amended by striking “and” at the end of sub-
4 paragraph (B), by striking the period at the end
5 of subparagraph (C) and inserting “, and”, and
6 by inserting at the end thereof the following new
7 subparagraph:

8 “(D) in the case of a CSEC plan, the em-
9 ployers make contributions to or under the plan
10 for any plan year which, in the aggregate, are
11 sufficient to ensure that the plan does not have
12 an accumulated funding deficiency under section
13 433 as of the end of the plan year.”.

14 (B) *CONFORMING AMENDMENTS.*—Section
15 412 of the Internal Revenue Code of 1986 is
16 amended—

17 (i) by striking “multiemployer plan”
18 in paragraph (A) of subsection (a)(2), in
19 clause (i) of subsection (c)(1)(B), the first
20 place it appears in clause (i) of subsection
21 (c)(1)(A), and the last place it appears in
22 paragraph (2) of subsection (d), and insert-
23 ing “multiemployer plan or a CSEC plan”,

1 (ii) by striking “430(j)” in paragraph
2 (1) of subsection (b) and inserting “430(j)
3 or under 433(f)”,

4 (iii)(I) by striking “and” at the end of
5 clause (i) of subsection (c)(1)(B),

6 (II) by striking the period at the end
7 of clause (ii) of subsection (c)(1)(B) and in-
8 serting “, and”, and

9 (III) by inserting the following new
10 clause after clause (ii) of subsection
11 (c)(1)(B):

12 “(iii) in the case of a CSEC plan, the
13 funding standard account shall be credited
14 under section 433(b)(3)(C) with the amount
15 of the waived funding deficiency and such
16 amount shall be amortized as required
17 under section 433(b)(2)(C).”,

18 (iv) by striking “under paragraph (1)”
19 in clause (i) of subsection (c)(4)(A) and in-
20 serting “under paragraph (1) or for grant-
21 ing an extension under section 433(d)”,

22 (v) by striking “waiver under this sub-
23 section” in subparagraph (B) of subsection
24 (c)(4) and inserting “waiver under this sub-
25 section or an extension under 433(d)”,

1 (vi) by striking “waiver or modifica-
2 tion” in subclause (I) of subsection
3 (c)(4)(B)(i) and inserting “waiver, modi-
4 fication, or extension”,

5 (vii) by striking “waivers” in the
6 heading of subsection (c)(4)(C) and of
7 clause (ii) of subsection (c)(4)(C) and in-
8 serting “waivers or extensions”,

9 (viii) by striking “section 431(d)” in
10 subparagraph (A) of subsection (c)(7) and
11 in paragraph (2) of subsection (d) and in-
12 serting “section 431(d) or section 433(d)”,

13 (ix) by striking “and” at the end of
14 subclause (I) of subsection (c)(4)(C)(i) and
15 inserting “or the accumulated funding defi-
16 ciency under section 433, whichever is ap-
17 plicable”,

18 (x) by striking “430(e)(2),” in sub-
19 clause (II) of subsection (c)(4)(C)(i) and in-
20 serting “430(e)(2) or 433(b)(2)(C), which-
21 ever is applicable, and”,

22 (xi) by adding immediately after sub-
23 clause (II) of subsection (c)(4)(C)(i) the fol-
24 lowing new subclause:

1 “(III) the total amounts not paid
2 by reason of an extension in effect
3 under section 433(d),” and
4 (xii) by striking “for waivers of” in
5 clause (ii) of subsection (c)(4)(C) and in-
6 serting “for waivers or extensions with re-
7 spect to”.

8 (3) *BENEFIT RESTRICTIONS.*—

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

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

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

1 (4) *BENEFIT INCREASES.*—Subparagraph (C) of
 2 section 401(a)(33) of the Internal Revenue Code of
 3 1986 is amended by striking “multiemployer plans”
 4 and inserting “multiemployer plans or CSEC plans”.

5 **SEC. 5. TRANSPARENCY.**

6 (a) *NOTICE TO PARTICIPANTS.*—

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

11 “(E) *EFFECT OF CSEC PLAN RULES ON*
 12 *PLAN FUNDING.*—

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

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

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

1 “(i) *APPLICABLE PLAN YEAR.*—For
2 purposes of this subparagraph, the term
3 ‘applicable plan year’ means any plan year
4 beginning after December 31, 2013, for
5 which—

6 “(I) the plan has a funding short-
7 fall (as defined in section 303(c)(4))
8 greater than \$1,000,000, and

9 “(II) the plan had 50 or more
10 participants on any day during the
11 preceding plan year.

12 For purposes of any determination under
13 subclause (II), the aggregation rule under
14 the last sentence of section 303(g)(2)(B)
15 shall apply.

16 “(iii) *SPECIAL RULE FOR PLAN YEARS*
17 *BEGINNING BEFORE 2014.*—In the case of a
18 preceding plan year referred to in clause
19 (i)(III) which begins before January 1,
20 2014, the information described in such
21 clause shall be provided only without regard
22 to the different rules applicable to CSEC
23 plans.”.

24 (2) *MODEL NOTICE.*—The Secretary of Labor
25 may modify the model notice required to be published

1 *under section 501(c) of the Pension Protection Act of*
 2 *2006 to include the information described in section*
 3 *101(f)(2)(E) of the Employee Retirement Income Se-*
 4 *curity Act of 1974, as added by this subsection.*

5 *(b) NOTICE OF FAILURE TO MEET MINIMUM FUNDING*
 6 *STANDARDS.—*

7 *(1) PENDING WAIVERS.—Paragraph (2) of sec-*
 8 *tion 101(d) of the Employee Retirement Income Secu-*
 9 *urity Act of 1974 (29 U.S.C. 1021(d)) is amended by*
 10 *striking “303” and inserting “303 or 306”.*

11 *(2) DEFINITIONS.—Paragraph (3) of section*
 12 *101(d) of the Employee Retirement Income Security*
 13 *Act of 1974 (21 U.S.C. 1021(d)) is amended by strik-*
 14 *ing “303(j)” and inserting “303(j) or 306(f), which-*
 15 *ever is applicable”.*

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

20 *“(g) ADDITIONAL INFORMATION WITH RESPECT TO*
 21 *CSEC PLANS.—With respect to any CSEC plan, an annual*
 22 *report under this section for a plan year shall include a*
 23 *list of participating employers and a good faith estimate*
 24 *of the percentage of total contributions made by such par-*
 25 *ticipating employers during the plan year.”.*

1 **SEC. 6. ELECTIONS.**

2 (a) *ELECTION NOT TO BE TREATED AS A CSEC*
3 *PLAN.*—

4 (1) *AMENDMENT TO ERISA.*—Subsection (f) of
5 *section 210 of the Employee Retirement Income Security*
6 *Act of 1974, as added by section 3, is amended*
7 *by adding at the end the following new paragraph:*

8 “(3) *ELECTION.*—

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

20 “(B) *SPECIAL RULE.*—If a plan described
21 *in subparagraph (A) is treated as a CSEC plan,*
22 *section 104 of the Pension Protection Act of*
23 *2006, as amended by the Preservation of Access*
24 *to Care for Medicare Beneficiaries and Pension*
25 *Relief Act of 2010, shall cease to apply to such*

1 *plan as of the first date as of which such plan*
2 *is treated as a CSEC plan.”.*

3 (2) *AMENDMENT TO THE CODE.—Section 414(y)*
4 *of the Internal Revenue Code of 1986, as added by*
5 *section 3, is amended by adding at the end the fol-*
6 *lowing new paragraph:*

7 “(3) *ELECTION.—*

8 “(A) *IN GENERAL.—If a plan falls within*
9 *the definition of a CSEC plan under this sub-*
10 *section (without regard to this paragraph), such*
11 *plan shall be a CSEC plan unless the plan spon-*
12 *sor elects not later than the close of the first plan*
13 *year of the plan beginning after December 31,*
14 *2013, not to be treated as a CSEC plan. An elec-*
15 *tion under the preceding sentence shall take effect*
16 *for such plan year and, once made, may be re-*
17 *voked only with the consent of the Secretary.*

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

1 **(b) ELECTION TO CEASE TO BE TREATED AS AN ELI-**
 2 **GIBLE CHARITY PLAN.—**

3 **(1) IN GENERAL.—***Subsection (d) of section 104*
 4 *of the Pension Protection Act of 2006, as added by*
 5 *section 202 of the Preservation of Access to Care for*
 6 *Medicare Beneficiaries and Pension Relief Act of*
 7 *2010, is amended by—*

8 **(A) striking “For purposes of” and insert-**
 9 **ing “(1) IN GENERAL.—For purposes of”, and**

10 **(B) adding at the end the following:**

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

19 **“(3) ELECTION TO USE FUNDING OPTIONS AVAIL-**
 20 **ABLE TO OTHER PLAN SPONSORS.—**

21 **“(A) A plan sponsor that makes the election**
 22 **described in paragraph (2) may elect for a plan**
 23 **to apply the rules described in subparagraphs**
 24 **(B), (C), and (D) for plan years beginning after**
 25 **December 31, 2013. Such election shall be made**

1 *at such time and in such form and manner as*
2 *shall be prescribed by the Secretary of the Treas-*
3 *ury. Any such election may be revoked only with*
4 *the consent of the Secretary of the Treasury.*

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

8 “(i) *an 11-year shortfall amortization*
9 *base,*

10 “(ii) *a 12-year shortfall amortization*
11 *base, and*

12 “(iii) *a 7-year shortfall amortization*
13 *base.*

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

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

24 “(ii) *in the case of a 12-year shortfall*
25 *amortization base, substituting ‘12-plan-*

1 *year period’ for ‘7-plan-year period’ wher-*
2 *ever such phrase appears.*

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

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

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

20 “(E) *For purposes of this paragraph, the*
21 *11-year amortization base is an amount, deter-*
22 *mined for the first plan year beginning after De-*
23 *cember 31, 2013, equal to the unamortized prin-*
24 *cipal amount of the shortfall amortization base*
25 *(as defined in section 303(c)(3) of the Employee*

1 *Retirement Income Security Act of 1974 and sec-*
2 *tion 430(c)(3) of the Internal Revenue Code of*
3 *1986) that would have applied to the plan for*
4 *the first plan beginning after December 31, 2009,*
5 *if—*

6 “(i) the plan had never been an eligible
7 charity plan,

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

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

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

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

14 “(i) the plan had never been an eligible
15 charity plan,

16 “(ii) the plan sponsor had made the
17 election described in section 303(c)(2)(D)(i)
18 of the Employee Retirement Income Secu-
19 rity Act of 1974 and in section
20 430(c)(2)(D)(i) of the Internal Revenue
21 Code of 1986 to have section 303(c)(2)(D)(i)
22 of such Act and section 430(c)(2)(D)(iii) of
23 such Code apply with respect to the shortfall
24 amortization base for the first plan year be-
25 ginning after December 31, 2010, and

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

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

15 “(i) the shortfall amortization base for
16 the first plan year beginning after December
17 31, 2013, without regard to this paragraph,
18 minus

19 “(ii) the sum of the 11-year shortfall
20 amortization base and the 12-year shortfall
21 amortization base.”.

22 (c) *DEEMED ELECTION.*—For purposes of sections
23 4(b)(2) and 4021(b)(3) of the Employee Retirement Income
24 Security Act of 1974, a plan shall be deemed to have made

1 *an irrevocable election under section 410(d) of the Internal*
2 *Revenue Code of 1986 if—*

3 *(1) the plan was established before January 1,*
4 *2014;*

5 *(2) the plan falls within the definition of a*
6 *CSEC plan;*

7 *(3) the plan sponsor does not make an election*
8 *under section 210(f)(3)(A) of the Employee Retirement*
9 *Income Security Act of 1974 and section*
10 *414(y)(3)(A) of the Internal Revenue Code of 1986, as*
11 *added by this Act; and*

12 *(4) the plan, plan sponsor, administrator, or fi-*
13 *duciary remits one or more premium payments for*
14 *the plan to the Pension Benefit Guaranty Corpora-*
15 *tion for a plan year beginning after December 31,*
16 *2013.*

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

19 **SEC. 7. SPONSOR EDUCATION AND ASSISTANCE.**

20 *(a) DEFINITION.—In this section, the term “CSEC*
21 *plan” has the meaning given that term in subsection (f)(1)*
22 *of section 210 of the Employee Retirement Income Security*
23 *Act of 1974 (29 U.S.C. 1060(f)(1)) (as added by this Act).*

24 *(b) EDUCATION.—The Participant and Plan Sponsor*
25 *Advocate established under section 4004 of the Employee*

1 *Retirement Income Security Act of 1974 (29 U.S.C. 1304)*
2 *shall make itself available to assist CSEC plan sponsors*
3 *and participants as part of the duties it performs under*
4 *the general supervision of the Board of Directors under sec-*
5 *tion 4004(b) of such Act (29 U.S.C. 1304(b)).*

6 **SEC. 8. EFFECTIVE DATE.**

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

Calendar No. 230

113TH CONGRESS
1ST Session

S. 1302

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.

OCTOBER 30, 2013

Reported with an amendment