

103^D CONGRESS
2^D SESSION

H. R. 3396

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide security for workers, to improve pension plan funding, to limit growth in insurance exposure, to protect the single-employer plan termination insurance program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 28, 1993

Mr. FORD of Michigan (for himself and Mr. ROSTENKOWSKI) (both by request) introduced the following bill; which was referred jointly to the Committees on Education and Labor and Ways and Means

JULY 19, 1994

Additional sponsors: Mr. PICKLE, Mr. HOUGHTON, and Mr. ZELIFF

A BILL

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide security for workers, to improve pension plan funding, to limit growth in insurance exposure, to protect the single-employer plan termination insurance program, and for other purposes.

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

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

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Retirement Protection Act of 1993”.

4 (b) TABLE OF CONTENTS.—

Sec. 1. Short Title and Table of Contents.

TITLE I—PENSION PLAN FUNDING

Subtitle A—Amendments to the Internal Revenue Code of 1986

- Sec. 101. Minimum Funding Requirements.
- Sec. 102. Limitation on Changes in Current Liability Assumptions.
- Sec. 103. Recognition of Already Bargained Benefit Increases.
- Sec. 104. Modification of Quarterly Contribution Requirement.
- Sec. 105. Exceptions to Excise Tax on Nondeductible Contributions.

Subtitle B—Amendments to the Employee Retirement Income Security Act of
1974

- Sec. 121. Minimum Funding Requirements.
- Sec. 122. Limitation on Changes in Current Liability Assumptions.
- Sec. 123. Recognition of Already Bargained Benefit Increases.
- Sec. 124. Modification of Quarterly Contribution Requirement.

TITLE II—AMENDMENTS RELATED TO TITLE IV OF THE
EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

- Sec. 201. Reportable Events.
- Sec. 202. Alternative to Involuntary Termination.
- Sec. 203. Certain Information Required to be Furnished to PBGC.
- Sec. 204. Liability upon Liquidation of Contributing Sponsor or Controlled
Group Member Where Plan Remains Ongoing.
- Sec. 205. Enforcement of Minimum Funding Requirements.
- Sec. 206. Remedies for Noncompliance with Requirements for Standard Termination.
- Sec. 207. Prohibition on Benefit Increases Where Plan Sponsor is in Bankruptcy.
- Sec. 208. Substantial Owner Benefits.
- Sec. 209. Phase-Out of Variable Rate Premium Cap.

TITLE III—PARTICIPANT SERVICES

- Sec. 301. Disclosure to Participants.
- Sec. 302. Missing Participants.
- Sec. 303. Modification to Maximum Guarantee of Disability Benefits.

TITLE IV—MISCELLANEOUS AMENDMENTS

- Sec. 401. ERISA Citation.
- Sec. 402. Definition of Contributing Sponsor.
- Sec. 403. Recovery Ratio under ERISA Section 4022(c).
- Sec. 404. Distress Termination Criteria for Banking Institutions.
- Sec. 405. Single Sum Distributions.

- Sec. 406. Adjustments to Lien for Missed Minimum Funding Contributions.
 Sec. 407. Rounding Rules for Cost of Living Adjustments.
 Sec. 408. Limitation on Cross-Testing in Defined Contribution Plans.
 Sec. 409. Funding of Restored Plans.

TITLE V—EFFECTIVE DATES

- Sec. 501. Effective Dates.

1 **TITLE I—PENSION PLAN**
 2 **FUNDING**
 3 **Subtitle A—Amendments to the**
 4 **Internal Revenue Code of 1986**

5 **SEC. 101. MINIMUM FUNDING REQUIREMENTS.**

6 (a) AMENDMENTS TO ADDITIONAL FUNDING RE-
 7 QUIREMENTS FOR SINGLE-EMPLOYER PLANS.—

8 (1) RELATIONSHIP OF ADDITIONAL FUNDING
 9 REQUIREMENT TO FUNDING STANDARD ACCOUNT
 10 CHARGES AND CREDITS.—

11 (A) Clause (ii) of section 412(l)(1)(A) of
 12 the Internal Revenue Code of 1986 is amended
 13 to read as follows:

14 “(ii) the sum of the charges for such
 15 plan years under subsection (b)(2), re-
 16 duced by the sum of the credits for such
 17 plan year under subparagraph (B) of sub-
 18 section (b)(3), and”.

19 (B) The last sentence in section 412(l)(1)
 20 is amended to read as follows: “Such increase
 21 shall not exceed the amount necessary to in-
 22 crease the funded current liability percentage

1 (taking into account the expected increase in
2 current liability due to benefits accruing during
3 the plan year) to 100 percent, reduced by the
4 amount described in clause (ii) of paragraph
5 (A).”

6 (2) AMENDMENT TO DEFICIT REDUCTION CON-
7 TRIBUTION.—Paragraph (2) of section 412(l) of the
8 Code is amended—

9 (A) by striking the period and inserting “,
10 and” at the end of subparagraph (B); and

11 (B) by adding at the end thereof a new
12 subparagraph (C) to read as follows:

13 “(C) the expected increase in current li-
14 ability due to benefits accruing during the plan
15 year.”

16 (3) INCREASE IN CURRENT LIABILITY DUE TO
17 CHANGE IN REQUIRED ASSUMPTIONS.—

18 (A) Paragraph (3) of section 412(l) of the
19 Code is amended by adding at the end thereof
20 a new subparagraph to read as follows:

21 “(D) SPECIAL RULE FOR REQUIRED
22 CHANGES IN ACTUARIAL ASSUMPTIONS.—

23 “(i) The unfunded old liability amount
24 with respect to any plan for any plan year
25 shall be increased by the amount necessary

1 to amortize the amount of additional un-
2 funded old liability under the plan, deter-
3 mined under clause (ii), in equal annual in-
4 stallments over a period of 12 plan years
5 (beginning with the first plan year begin-
6 ning after December 31, 1994).

7 “(ii) the term ‘additional unfunded
8 old liability’ means the amount (if any) by
9 which—

10 “(I) the current liability of the
11 plan as of the beginning of the first
12 plan year beginning after December
13 31, 1994 valued using the assump-
14 tions required in paragraph (7)(C) of
15 this subsection as in effect for plan
16 years beginning after December 31,
17 1994, exceeds

18 “(II) the current liability of the
19 plan as of the beginning of the first
20 plan year beginning after December
21 31, 1994, valued using the prior inter-
22 est rate and using such mortality as-
23 sumptions as were used to determine
24 current liability for the first plan year
25 beginning after December 31, 1992.

1 “(iii) For purposes of clause (ii), the
2 term ‘prior interest rate’ means the rate of
3 interest that is the same percentage of the
4 weighted average under paragraph (5) of
5 subsection (b) for the first plan year begin-
6 ning after December 31, 1994 as the rate
7 of interest that was used by the plan to de-
8 termine current liability for the first plan
9 year beginning after December 31, 1992
10 was of the weighted average under such
11 paragraph (5) of subsection (b) for such
12 first plan year beginning after December
13 31, 1992. With the exception of assump-
14 tions concerning the rate of interest and
15 mortality, the assumptions used for deter-
16 mining current liability under subclause (I)
17 of clause (ii) shall also be used to deter-
18 mine current liability under subclause (II)
19 of clause (ii).”

20 (4) APPLICABLE PERCENTAGE FOR DETERMIN-
21 ING UNFUNDED NEW LIABILITY AMOUNT.—Clause
22 (ii) of section 412(l)(4)(C) of the Code is amended
23 by replacing “35” with “60”.

24 (5) UNPREDICTABLE CONTINGENT EVENT
25 AMOUNT.—

1 (A) Paragraph (5)(A) of section 412(l) of
2 the Code is amended—

3 (i) by inserting “greatest of” for
4 “greater of” before clause (i);

5 (ii) by striking “or” at the end of
6 clause (i);

7 (iii) by striking the period at the end
8 of clause (ii) and inserting “, or”; and

9 (iv) by adding a new clause (iii) to
10 read as follows:

11 “(iii) the additional amount that
12 would be determined under paragraph
13 (4)(A) if the unpredictable contingent
14 event benefit liabilities were included in
15 unfunded new liability notwithstanding
16 paragraph (4)(B)(ii).”

17 (B) Paragraph (5) of section 412(l) of the
18 Code is amended by adding a new subpara-
19 graph (E) to read as follows:

20 “(E) LIMITATION.—The present value of
21 the amounts described in subparagraph (A)
22 with respect to any one event shall not exceed
23 the unpredictable contingent event benefit li-
24 abilities attributable to that event.”

1 (6) REQUIRED INTEREST RATE AND MORTALITY
2 ASSUMPTIONS FOR DETERMINING CURRENT LIABIL-
3 ITY.—Paragraph (7)(C) of section 412(l) of the
4 Code is amended to read as follows:

5 “(C) INTEREST RATE AND MORTALITY AS-
6 SUMPTIONS USED.—Effective for plan years be-
7 ginning after December 31, 1994—

8 “(i) the rate of interest used to deter-
9 mine current liability under this subsection
10 shall be the rate of interest used under
11 subsection (b)(5), except the permissible
12 range under subparagraph (B)(ii) of such
13 subsection (b)(5) shall not exceed 100 per-
14 cent of the weighted average referred to in
15 such subparagraph, and

16 “(ii) the mortality table used to deter-
17 mine current liability under this subsection
18 shall be the prevailing commissioners’
19 standard table (described in section
20 807(d)(5)(A)) that would be used to deter-
21 mine reserves for group annuity contracts
22 issued on the date as of which current li-
23 ability is determined (without regard to
24 any other subparagraph of section
25 807(d)(5)).”

1 (7) TRANSITION RULE.—Section 412(l) of the
2 Code is amended by adding at the end thereof a new
3 paragraph (9) to read as follows:

4 “(9) ADDITIONAL LIMITATIONS.—

5 “(A) For any applicable plan year, at the
6 election of the employer (in such manner as is
7 prescribed by the Secretary), the increase under
8 paragraph (1) shall not exceed the greater of—

9 “(i) the increase that would have been
10 required under the provisions of such para-
11 graph (1) as in effect for plan years begin-
12 ning before January 1, 1995 if such provi-
13 sions had remained in effect for the appli-
14 cable plan year, or

15 “(ii) the amount necessary to increase
16 the funded current liability percentage
17 (taking into account the expected increase
18 in current liability due to benefits accruing
19 during the plan year) for the applicable
20 plan year to a funded current liability per-
21 centage equal to the sum of the initial
22 funded current liability percentage of the
23 plan plus the applicable number of percent-
24 age points for such applicable plan year,

1 reduced by the amount determined under
 2 paragraph (1)(A)(ii).

3 “(B)(i) Except as provided in clause (iii),
 4 for plans with an initial funded current liability
 5 percentage that is equal to or less than 75 per-
 6 cent, the applicable number of percentage
 7 points for the applicable plan year is:

| “In the case of applicable plan years beginning in: | The applicable number of per- cent point is: |
|--|---|
| 1995 | 3 |
| 1996 | 6 |
| 1997 | 9 |
| 1998 | 12 |
| 1999 | 15 |
| 2000 | 19 |
| 2001 | 24. |

8 “(ii) For plans with an initial funded cur-
 9 rent liability percentage that is equal to or
 10 greater than 85 percent, the applicable number
 11 of percentage points for the applicable plan
 12 year is:

| “In the case of applicable plan years beginning in: | The applicable number of per- centage points is: |
|--|---|
| 1995 | 2 |
| 1996 | 4 |
| 1997 | 6 |
| 1998 | 8 |
| 1999 | 10 |
| 2000 | 13 |
| 2001 | 15. |

13 “(iii) For plans with an initial funded cur-
 14 rent liability percentage that is greater than 75
 15 percent but less than 85 percent, or for plans
 16 with an initial funded current liability percent-

1 age equal to or less than 75 percent for which,
2 as of a later applicable plan year, the sum of
3 the initial funded current liability percentage
4 and the applicable number of percentage points
5 attributable to the previous applicable plan year
6 exceed 75 percent, the applicable number of
7 percentage points for any such applicable plan
8 year is the sum of—

9 “(I) 2 percentage points;

10 “(II) the applicable number of per-
11 centage points attributable to the previous
12 applicable plan year (except that such
13 number for the applicable plan year begin-
14 ning in 1995 is zero);

15 “(III) the product of .10 multiplied by
16 the excess, if any, of (a) 85 percentage
17 over (b) the sum of the initial funded cur-
18 rent liability percentage and the number
19 under subclause (II);

20 “(IV) for applicable plan years begin-
21 ning in 2000, 1 percentage point; and

22 “(V) for applicable plan years begin-
23 ning in 2001, 2 percentage points.

24 “(D) DEFINITIONS.—For purposes of this
25 paragraph:

1 “(i) ‘Applicable plan year’ means a
2 plan year beginning after December 31,
3 1994, and before January 1, 2002.

4 “(ii) ‘Initial funded current liability
5 percentage’ means the funded current li-
6 ability percentage as of the first day of the
7 first plan year beginning after December
8 31, 1994.”

9 (8) THREE-YEAR SOLVENCY REQUIREMENT.—

10 (A) Section 412(m) of such Code is
11 amended by adding at the end thereof a new
12 paragraph (6) to read as follows:

13 “(6) THREE-YEAR SOLVENCY REQUIREMENT.—

14 “(A) IN GENERAL.—This paragraph ap-
15 plies to a defined benefit plan that—

16 “(i) is required to make quarterly con-
17 tributions under this subsection for a plan
18 year, and

19 “(ii) has liquid assets as of the last
20 day of the last month preceding the quar-
21 terly installment date that are less than
22 the base amount for the quarter.

23 “(B) AMOUNT OF QUARTERLY CONTRIBU-
24 TION.—The amount of the required installment
25 that is due for any quarter under this sub-

1 section is the greater of the amount under this
2 subsection (without regard to this paragraph)
3 or the quarterly solvency payment. Such
4 amount, when added to prior installments for
5 the plan year, shall not exceed the amount nec-
6 essary to increase the funded currently liability
7 percentage (taking into account the expected in-
8 crease in current liability due to benefits accru-
9 ing during the plan year) to 100 percent.

10 “(C) DEFINITIONS.—For purposes of this
11 paragraph:

12 “(i) BASE AMOUNT.—‘Base amount’
13 means an amount that is the product of
14 three multiplied by the sum of the adjusted
15 disbursements from the plan for the 12
16 months ending on the last day of the last
17 month preceding the quarterly installment
18 due date. If the amount computed under
19 the previous sentence exceeds the product
20 of two multiplied by the sum of adjusted
21 disbursements for the 36 months ending
22 on the last day of the last month preceding
23 the quarterly installment due date, and an
24 enrolled actuary certifies to the Secretary
25 that the excess is the result of non-

1 recurring circumstances, the base amount
2 shall exclude amounts related to those non-
3 recurring circumstances.

4 “(ii) DISBURSEMENTS FROM THE
5 PLAN.—The term ‘disbursements from the
6 plan’ means all disbursements from the
7 trust, including purchases of annuities,
8 payment of single sums and the benefit
9 payments, and administrative expenses.

10 “(iii) ADJUSTED DISBURSEMENTS.—
11 ‘Adjusted disbursements’ means the
12 amount of disbursements reduced by the
13 product of the plan’s funded current liabil-
14 ity percentage (as defined in subsection
15 (1)(8)(B)) for the plan year multiplied by
16 the sum of annuity purchases, single sum
17 distributions, and such other disburse-
18 ments as the Secretary shall provide in
19 regulations.

20 “(iv) LIQUID ASSETS.—‘Liquid assets’
21 means cash, marketable securities and
22 such other assets as specified by the Sec-
23 retary.

24 “(v) QUARTERLY SOLVENCY PAY-
25 MENT.—‘Quarterly solvency payment’

1 means an amount of liquid assets equal to
2 the difference between the plan's liquid as-
3 sets and the base amount, as of the last
4 day of a quarter.

5 “(D) EFFECT OF SOLVENCY CONTRIBU-
6 TION.—

7 “(i) A quarterly solvency payment
8 shall be treated in the same manner as a
9 quarterly required installment, except that
10 paragraph (2)(C) shall be applied by ap-
11 plying contributions to the latest outstand-
12 ing quarterly solvency payment. For pur-
13 poses of paragraph (2)(B), a quarterly sol-
14 vency payment that is not paid timely shall
15 not be considered paid until the earlier of
16 the last day of a later quarter for which ei-
17 ther (I) the plan does not have a quarterly
18 solvency payment required, or (II) the sol-
19 vency payment for such later quarter is
20 paid timely.

21 “(ii) The Secretary shall provide such
22 rules as are necessary to avoid duplication
23 or omission of any factors in the deter-
24 mination and application of this require-
25 ment.”

1 (B) EXCISE TAX ON UNPAID QUARTERLY
2 SOLVENCY PAYMENTS.—

3 (i) Subsection (e) of section 4971 of
4 the Code is amended by striking “(a) or
5 (b)” wherever it appears and replacing it
6 with “(a), (b) or (f)”.

7 (ii) Section 4971 of the Code is
8 amended by redesignating subsection (f) as
9 subsection (g) and adding a new subsection
10 (f) to read as follows:

11 “(f)(1) For each quarter of the plan year of a plan
12 to which section 412 applies, there is imposed a tax of
13 10 percent of the amount of any outstanding quarterly
14 solvency payments, as described in section 412(m)(6). A
15 quarterly solvency payment shall no longer be considered
16 outstanding on the earlier of the last day of a later quarter
17 for which either (A) the plan does not have a quarterly
18 solvency payment required, or (B) the solvency payment
19 for such later quarter is paid timely.

20 “(2) If by the end of the fourth quarter following the
21 quarter for which a quarterly solvency payment was due,
22 either the plan has a quarterly solvency payment due, or
23 the solvency payment for such later quarter was not paid
24 timely, (A) there is hereby imposed a tax equal to 100
25 percent of the unpaid solvency payment for such earlier

1 quarter, and (B) the quarterly solvency payment for such
2 earlier quarter shall no longer be considered outstanding.”

3 (C) OUTSTANDING QUARTERLY SOLVENCY
4 PAYMENTS.—Section 401(a) of such Code is
5 amended by adding a new paragraph (32) at
6 the end thereof to read as follows:

7 “(32) OUTSTANDING QUARTERLY SOLVENCY
8 PAYMENTS.—A trust forming part of a pension plan
9 shall not be treated as failing to constitute a quali-
10 fied trust under this section merely because the pen-
11 sion plan of which such trust is a part ceases to
12 make prohibited payments during a period in which
13 a quarterly solvency payment, as defined in section
14 412(m)(6), is outstanding. A prohibited payment is
15 any payment, in excess of the monthly amount paid
16 under a single life annuity (plus any social security
17 supplements, within the meaning of section
18 411(a)(9)), to a participant or beneficiary whose an-
19 nuity starting date, as defined in section 417(f)(2),
20 occurs during the period in which there are out-
21 standing quarterly solvency payments, any purchase
22 during such period of an irrevocable commitment
23 from an insurer to pay benefits, and such other pay-
24 ments as provided by the Secretary. For purposes of
25 this subsection, a quarterly solvency payment shall

1 no longer be considered outstanding on the earlier of
2 the last day of a later quarter for which either (A)
3 the plan does not have a quarterly solvency payment
4 required, or (B) the solvency payment for such later
5 quarter is paid timely.”

6 (9) AMENDMENT TO FULL FUNDING DEFINI-
7 TION.—

8 (A) Subclause (I) of subsection
9 412(c)(7)(A)(i) is amended by inserting “(in-
10 cluding the expected increase in current liability
11 due to benefits accruing during the plan year)”
12 after “current liability”.

13 (B) Section 412(c)(7) is further amended
14 by inserting in flush language after subpara-
15 graph (A), a sentence to read as follows: “In
16 any plan year in which a plan has unfunded
17 current liability under subsection (l)(8), the
18 amount in this subparagraph (A) shall not be
19 less than such unfunded current liability.”

20 (C) Subparagraph (B) of subsection
21 412(c)(7) is amended to read as follows:

22 “(B) CURRENT LIABILITY.—For purposes
23 of subparagraph (D) and subclause (I) of sub-
24 paragraph (A)(i), the term ‘current liability’
25 has the meaning given such term by subsection

1 (l)(7) (without regard to the interest rate and
2 mortality assumptions required therein, and
3 without regard to subparagraph (D) thereof).”

4 (b) EFFECTIVE DATE.—The amendments made by
5 this section shall be effective for plan years beginning after
6 December 31, 1994.

7 **SEC. 102. LIMITATION ON CHANGES IN CURRENT LIABILITY**
8 **ASSUMPTIONS.**

9 (a) Section 412(c) is amended by redesignating para-
10 graph (5) as subparagraph (5)(A), and by adding a new
11 subparagraph (5)(B) to read as follows:

12 “(B)(i) CHANGE IN ASSUMPTIONS RE-
13 QUIRES APPROVAL.—If the actuarial assump-
14 tions (other than the assumptions described in
15 subsection (l)(7)(C)) used to determine the cur-
16 rent liability for a plan are changed, the new
17 actuarial assumptions shall become the actuar-
18 ial assumptions used to determine current li-
19 ability for the plan only if the change is ap-
20 proved by the Secretary.

21 “(ii) Clause (i) shall not apply unless—

22 “(I) the plan is subject to the require-
23 ments of subsection (l);

1 “(II) the requirements of section
2 4043(b)(1) of the Employee Retirement
3 Income Security Act of 1974 are met; and

4 “(III) the change in assumptions (de-
5 termined after taking into account any
6 changes in interest rate and mortality
7 table) results in a decrease in the un-
8 funded current liability of the plan for the
9 current plan year that is \$50,000,000 or
10 greater, or that is \$5,000,000 or greater
11 and that is 5 percent or more of the cur-
12 rent liability of the plan before such
13 change.”

14 (b) EFFECTIVE DATE.—The amendments made by
15 this section shall be effective with respect to assumption
16 changes in plan years beginning after October 28, 1993.
17 Assumption changes made in plan years beginning after
18 December 31, 1992 that would have required approval
19 under this amended section had it been in effect at the
20 time of such changes, shall not be effective for plan years
21 beginning after December 31, 1994 unless approved by
22 the Secretary.

1 **SEC. 103. RECOGNITION OF ALREADY BARGAINED**
2 **CHANGES IN LIABILITY.**

3 (a) Section 412(c) is amended by adding a new para-
4 graph (12) at the end thereof to read as follows:

5 “(12) PLAN LIABILITIES ARISING FROM
6 AMENDMENTS EFFECTIVE IN THE FUTURE.—A col-
7 lectively bargained plan described in section 413(a)
8 shall anticipate benefit increases scheduled to take
9 effect during the term of the collective bargaining
10 agreement applicable to the plan at the same time
11 and in the same manner as if the plan amendment
12 implementing the provision of the collective bargain-
13 ing agreement were adopted by the parties when the
14 parties entered into the collective bargaining agree-
15 ment.”

16 (b) EFFECTIVE DATE.—The amendments made by
17 this section shall be effective for plan years beginning after
18 December 31, 1994 with respect to collective bargaining
19 agreements in effect on or after January 1, 1995.

20 **SEC. 104. MODIFICATION OF QUARTERLY CONTRIBUTION**
21 **REQUIREMENT.**

22 (a) Section 412(m) of the Internal Revenue Code of
23 1986, as amended by section 101 of this Act, is further
24 amended by adding at the end thereof a new paragraph
25 (7) to read as follows:

1 “(7) APPLICABILITY OF THIS SUBSECTION.—

2 This subsection applies only with respect to a plan
3 year for which the funded current liability percent-
4 age of such plan (within the meaning of subsection
5 (l)(8)(B)) for the preceding plan year is less than
6 100 percent.”

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall be effective for plan years beginning after
9 the date of enactment of this Act.

10 **SEC. 105. EXCEPTIONS TO EXCISE TAX ON NONDEDUCTIBLE**
11 **CONTRIBUTIONS.**

12 (a) Section 4972(c) of the Internal Revenue Code of
13 1986 is amended by adding a new paragraph (6) to read
14 as follows:

15 “(6) EXCEPTIONS.—In determining the amount
16 of nondeductible contributions for any taxable year,
17 there shall not be taken into account—

18 “(A) Any contributions that would be de-
19 ductible under section 404(a)(1)(D) if the plan
20 had more than 100 participants provided that
21 (i) the plan is covered under section 4021 of
22 the Employee Retirement Income Security Act
23 of 1974, and (ii) the plan is terminated under
24 section 4041(a)(2) of such Act during the plan

1 year ending with or within the taxable year or
2 during a previous plan year.

3 “(B) Any contributions described in sec-
4 tion 401(m)(4)(A) or 402(g)(3)(A) that do not
5 exceed 6 percent of compensation, as defined in
6 section 404(a)(7)(A)(i), that are not deductible
7 merely because of section 404(a)(7). For pur-
8 poses of the preceding sentence, the deductible
9 limits under section 404(a)(7) shall first be ap-
10 plied to amounts contributed to a defined bene-
11 fit plan and then to amounts described in the
12 preceding sentence. This subparagraph shall
13 apply only if the defined benefit plan is a plan
14 with more than 100 participants, as described
15 in section 404(a)(1)(D).”

16 (b) Section 4972(c)(6)(A) as added by this section
17 shall be effective for taxable years ending on or after the
18 date of enactment of this Act. Section 4972(c)(6)(B) as
19 added by this section shall apply for taxable years ending
20 on or after December 31, 1992.

1 **Subtitle B—Amendments to the**
2 **Employee Retirement Income**
3 **Security Act of 1974**

4 **SEC. 121. MINIMUM FUNDING REQUIREMENTS.**

5 (a) AMENDMENTS TO ADDITIONAL FUNDING RE-
6 QUIREMENTS FOR SINGLE-EMPLOYER PLANS.—

7 (1) RELATIONSHIP OF ADDITIONAL FUNDING
8 REQUIREMENT TO FUNDING STANDARD ACCOUNT
9 CHARGES AND CREDITS.—

10 (A) Clause (ii) of section 302(d)(1)(A) of
11 the Employee Retirement Income Security Act
12 of 1974 (29 U.S.C. 1082(d)) is amended to
13 read as follows:

14 “(ii) the sum of the charges for such
15 plan years under subsection (b)(2), re-
16 duced by the sum of the credits for such
17 plan year under subparagraph (B) of sub-
18 section (b)(3), and”.

19 (B) The last sentence in section 302(d)(1)
20 is amended to read as follows: “Such increase
21 shall not exceed the amount necessary to in-
22 crease the funded current liability percentage
23 (taking into account the expected increase in
24 current liability due to benefits accruing during
25 the plan year) to 100 percent, reduced by the

1 amount described in clause (ii) of paragraph
2 (A).”

3 (2) AMENDMENT TO DEFICIT REDUCTION CON-
4 TRIBUTION.—Paragraph (2) of section 302(d) of
5 such Act is amended—

6 (A) by striking the period and inserting “,
7 and” at the end of subparagraph (B); and

8 (B) by adding at the end thereof a new
9 subparagraph (C) to read as follows:

10 “(C) the expected increase in current li-
11 ability due to benefits accruing during the plan
12 year.”

13 (3) INCREASE IN CURRENT LIABILITY DUE TO
14 CHANGE IN REQUIRED ASSUMPTIONS.—

15 (A) Paragraph (3) of section 302(d) of
16 such Act is amended by adding at the end
17 thereof a new subparagraph to read as follows:

18 “(D) SPECIAL RULE FOR REQUIRED
19 CHANGES IN ACTUARIAL ASSUMPTIONS.—

20 “(i) The unfunded old liability amount
21 with respect to any plan for any plan year
22 shall be increased by the amount necessary
23 to amortize the amount of additional un-
24 funded old liability under the plan, deter-
25 mined under clause (ii), in equal annual in-

1 stallments over a period of 12 plan years
2 (beginning with the first plan year begin-
3 ning after December 31, 1994).

4 “(ii) The term ‘additional unfunded
5 old liability’ means the amount (if any) by
6 which—

7 “(I) the current liability of the
8 plan as of the beginning of the first
9 plan year beginning after December
10 31, 1994 valued using the assump-
11 tions required in paragraph (7)(C) of
12 this subsection as in effect for plan
13 years beginning after December 31,
14 1994, exceeds

15 “(II) the current liability of the
16 plan as of the beginning of the first
17 plan year beginning after December
18 31, 1994, valued using the prior inter-
19 est rate and using such mortality as-
20 sumptions as were used to determine
21 current liability for the first plan year
22 beginning after December 31, 1992.

23 “(iii) For purposes of clause (ii), the
24 term ‘prior interest rate’ means the rate of
25 interest that is the same percentage of the

1 weighted average under paragraph (5) of
2 subsection (b) for the first plan year begin-
3 ning after December 31, 1994 as the rate
4 of interest that was used by the plan to de-
5 termine current liability for the first plan
6 year beginning after December 31, 1992
7 was of the weighted average under such
8 paragraph (5) of subsection (b) for such
9 first plan year beginning after December
10 31, 1992. With the exception of assump-
11 tions concerning the rate of interest and
12 mortality, the assumptions used for deter-
13 mining current liability under subclause (I)
14 of clause (ii) shall also be used to deter-
15 mine current liability under subclause (II)
16 of clause (ii).”

17 (4) APPLICABLE PERCENTAGE FOR DETERMIN-
18 ING UNFUNDED NEW LIABILITY AMOUNT.—Clause
19 (ii) of section 302(d)(4)(C) of such Act is amended
20 by replacing “35” with “60”.

21 (5) UNPREDICTABLE CONTINGENT EVENT
22 AMOUNT.—

23 (A) Paragraph (5)(A) of section 302(d) of
24 such Act is amended—

1 (i) by inserting “greatest of” for
2 “greater of” before clause (i);

3 (ii) by striking “or” at the end of
4 clause (i);

5 (iii) by striking the period at the end
6 of clause (ii) and inserting “, or”; and

7 (iv) by adding a new clause (iii) to
8 read as follows:

9 “(iii) the additional amount that
10 would be determined under paragraph
11 (4)(A) if the unpredictable contingent
12 event benefit liabilities were included in
13 unfunded new liability notwithstanding
14 paragraph (4)(B)(ii).”

15 (B) Paragraph (5) of section 302(d) of
16 such Act is amended by adding a new subpara-
17 graph (E) to read as follows:

18 “(E) LIMITATION.—The present value of
19 the amounts described in subparagraph (A)
20 with respect to any one event shall not exceed
21 the unpredictable contingent event benefit li-
22 abilities attributable to that event.”

23 (6) REQUIRED INTEREST RATE AND MORTALITY
24 ASSUMPTIONS FOR DETERMINING CURRENT LIABIL-

1 ITY.—Paragraph (7)(C) of section 302(d) of such
2 Act is amended to read as follows:

3 “(C) INTEREST RATE AND MORTALITY AS-
4 SUMPTIONS USED.—Effective for plan years be-
5 ginning after December 31, 1994—

6 “(i) the rate of interest used to deter-
7 mine current liability under this subsection
8 shall be the rate of interest used under
9 subsection (b)(5), except the permissible
10 range under subparagraph (B)(ii) of such
11 subsection (b)(5) shall not exceed 100 per-
12 cent of the weighted average referred to in
13 such subparagraph, and

14 “(ii) the mortality table used to deter-
15 mine current liability under this subsection
16 shall be the prevailing commissioners’
17 standard table (described in section
18 807(d)(5)(A) of the Internal Revenue Code
19 of 1986) that would be used to determine
20 reserves for group annuity contracts issued
21 on the date as of which current liability is
22 determined (without regard to any other
23 subparagraph of section 807(d)(5) of the
24 Internal Revenue Code of 1986).”

1 (7) TRANSITION RULE.—Section 302(d) of such
2 Act is amended by adding at the end thereof a new
3 paragraph (9) to read as follows:

4 “(9) ADDITIONAL LIMITATIONS.—

5 “(A) For any applicable plan year, at the
6 election of the employer (in such manner as is
7 prescribed by the Secretary of the Treasury),
8 the increase under paragraph (1) shall not ex-
9 ceed the greater of—

10 “(i) the increase that would have been
11 required under the provisions of such para-
12 graph (1) as in effect for plan years begin-
13 ning before January 1, 1995 if such provi-
14 sions had remained in effect for the appli-
15 cable plan year, or

16 “(ii) the amount necessary to increase
17 the funded current liability percentage
18 (taking into account the expected increase
19 in current liability due to benefits accruing
20 during the plan year) for the applicable
21 plan year to a funded current liability per-
22 centage equal to the sum of the initial
23 funded current liability percentage of the
24 plan plus the applicable number of percent-
25 age points for such applicable plan year,

1 reduced by the amount determined under
 2 paragraph (1)(A)(ii).

3 “(B)(i) Except as provided in clause (iii),
 4 for plans with an initial funded current liability
 5 percentage that is equal to or less than 75 per-
 6 cent, the applicable number of percentage
 7 points for the applicable plan year is:

| “In the case of applicable plan years beginning in: | The applicable number of per- centage points is: |
|--|---|
| 1995 | 3 |
| 1996 | 6 |
| 1997 | 9 |
| 1998 | 12 |
| 1999 | 15 |
| 2000 | 19 |
| 2001 | 24. |

8 “(ii) For plans with an initial funded cur-
 9 rent liability percentage that is equal to or
 10 greater than 85 percent, the applicable number
 11 of percentage points for the applicable plan
 12 year is:

| “In the case of applicable plan years beginning in: | The applicable number of per- centage points is: |
|--|---|
| 1995 | 2 |
| 1996 | 4 |
| 1997 | 6 |
| 1998 | 8 |
| 1999 | 10 |
| 2000 | 13 |
| 2001 | 15. |

13 “(iii) For plans with an initial funded cur-
 14 rent liability percentage that is greater than 75
 15 percent but less than 85 percent, or for plans
 16 with an initial funded current liability percent-

1 age equal to or less than 75 percent for which,
2 as of a later applicable plan year, the sum of
3 the initial funded current liability percentage
4 and the applicable number of percentage points
5 attributable to the previous applicable plan year
6 exceed 75 percent, the applicable number of
7 percentage points for any such applicable plan
8 year is the sum of:

9 “(I) 2 percentage points;

10 “(II) the applicable number of per-
11 centage points attributable to the previous
12 applicable plan year (except that such
13 number for the applicable plan year begin-
14 ning in 1995 is zero);

15 “(III) the product of .10 multiplied by
16 the excess, if any, of (a) 85 percent over
17 (b) the sum of the initial funded current li-
18 ability percentage and the number under
19 subclause (II);

20 “(IV) for applicable plan years begin-
21 ning in 2000, 1 percentage point; and

22 “(V) for applicable plan years begin-
23 ning in 2001, 2 percentage points.

24 “(D) DEFINITIONS.—For purposes of this
25 paragraph:

1 “(i) ‘Applicable plan year’ means a
2 plan year beginning after December 31,
3 1994, and before January 1, 2002.

4 “(ii) ‘Initial funded current liability
5 percentage’ means the funded current li-
6 ability percentage as of the first day of the
7 first plan year beginning after December
8 31, 1994.”

9 (8) THREE-YEAR SOLVENCY REQUIREMENT.—

10 (A) Section 302(e) of such Act is amended
11 by adding at the end thereof a new paragraph
12 (6) to read as follows:

13 “(6) THREE-YEAR SOLVENCY REQUIREMENT.—

14 “(A) IN GENERAL.—This paragraph ap-
15 plies to a defined benefit plan that—

16 “(i) is required to make quarterly con-
17 tributions under this subsection for a plan
18 year, and

19 “(ii) has liquid assets as of the last
20 day of the last month preceding the quar-
21 terly installment date that are less than
22 the base amount for the quarter.

23 “(B) AMOUNT OF QUARTERLY CONTRIBU-
24 TION.—The amount of the required installment
25 that is due for any quarter under this sub-

1 section is the greater of the amount under this
2 subsection (without regard to this paragraph)
3 or the quarterly solvency payment. Such
4 amount, when added to prior installments for
5 the plan year, shall not exceed the amount nec-
6 essary to increase the funded current liability
7 percentage (taking into account the expected in-
8 crease in current liability due to benefits accru-
9 ing during the plan year) to 100 percent.

10 “(C) DEFINITIONS.—For purposes of this
11 paragraph:

12 “(i) BASE AMOUNT.—‘Base amount’
13 means an amount that is the product of
14 three multiplied by the sum of the adjusted
15 disbursements from the plan for the 12
16 months ending on the last day of the last
17 month preceding the quarterly installment
18 due date. If the amount computed under
19 the previous sentence exceeds the product
20 of two multiplied by the sum of adjusted
21 disbursements for the 36 months ending
22 on the last day of the last month preceding
23 the quarterly installment due date, and an
24 enrolled actuary certifies to the Secretary
25 of the Treasury that the excess is the re-

1 sult of nonrecurring circumstances, the
2 base amount shall exclude amounts related
3 to those nonrecurring circumstances.

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

10 “(iii) ADJUSTED DISBURSEMENTS.—
11 ‘Adjusted disbursements’ means the
12 amount of disbursements reduced by the
13 product of the plan’s funded current liabil-
14 ity percentage (as defined in subsection
15 (d)(8)(B)) for the plan year multiplied by
16 the sum of annuity purchases, single sum
17 distributions, and such other disburse-
18 ments as the Secretary of the Treasury
19 shall provide in regulations.

20 “(iv) LIQUID ASSETS.—‘Liquid assets’
21 means cash, marketable securities and
22 such other assets as specified by the Sec-
23 retary of the Treasury.

24 “(v) QUARTERLY SOLVENCY PAY-
25 MENT.—‘Quarterly solvency payment’

1 means an amount of liquid assets equal to
2 the difference between the plan's liquid as-
3 sets and the base amount, as of the last
4 day of a quarter.

5 “(D) EFFECT OF SOLVENCY CONTRIBU-
6 TION.—

7 “(i) A quarterly solvency payment
8 shall be treated in the same manner as a
9 quarterly required installment, except that
10 paragraph (2)(C) shall be applied by ap-
11 plying contributions to the latest outstand-
12 ing quarterly solvency payment. For pur-
13 poses of paragraph (2)(B), a quarterly sol-
14 vency payment that is not paid timely shall
15 not be considered paid until the earlier of
16 the last day of a later quarter for which (I)
17 the plan does not have a quarterly solvency
18 payment required, or (II) the solvency pay-
19 ment for such later quarter is paid timely.

20 “(ii) The Secretary of the Treasury
21 shall provide such rules as are necessary to
22 avoid duplication or omission of any fac-
23 tors in the determination and application
24 of this requirement.”

1 (B) LIMITATION ON DISTRIBUTIONS
2 OTHER THAN LIFE ANNUITIES PAID BY THE
3 PLAN.—

4 (i) Section 204 of the Employee Re-
5 tirement Income Security Act of 1974 (29
6 U.S.C. 1054) is amended by redesignating
7 subsection (i) as (j) and inserting a new
8 subsection (i) to read as follows:

9 “(i) Notwithstanding any other provi-
10 sion of this Part, the fiduciary of a pension
11 plan that is subject to the additional fund-
12 ing requirements of section 302(d) shall
13 not permit a prohibited payment to be
14 made from a plan during a period in which
15 a quarterly solvency payment, as defined in
16 section 302(e)(6), is outstanding. A pro-
17 hibited payment is any payment, in excess
18 of the monthly amount paid under a single
19 life annuity (plus any social security sup-
20 plements, within the meaning of section
21 204(b)(1)(G)), to a participant or bene-
22 ficiary whose annuity starting date, as de-
23 fined in section 205(h)(2), occurs during
24 the period in which there are outstanding
25 quarterly solvency payments, any purchase

1 during such period of an irrevocable com-
2 mitment from an insurer to pay benefits,
3 and such other payments as provided by
4 the Secretary of the Treasury. For pur-
5 poses of this subsection, a quarterly sol-
6 vency payment shall no longer be consid-
7 ered outstanding on the earlier of the last
8 day of a later quarter for which either (I)
9 the plan does not have a quarterly solvency
10 payment required, or (II) the solvency pay-
11 ment for such later quarter is paid timely.
12 Compliance with this subsection shall not
13 constitute a violation of any other provi-
14 sion of this Act.”

15 (ii) Section 502 of such Act is amend-
16 ed by adding at the end thereof a new sub-
17 section (m) to read as follows:

18 “(m) In the case of a distribution to a pension plan
19 participant or beneficiary in violation of section 204(i) by
20 a plan fiduciary, the Secretary shall assess a penalty
21 against such fiduciary in an amount equal to the value
22 of the distribution. Such penalty shall not exceed \$10,000
23 for each such distribution.”

24 (9) AMENDMENT TO FULL FUNDING DEFINI-
25 TION.—

1 (A) Subclause (I) of subsection
2 302(c)(7)(A)(i) of such Act is amended by in-
3 serting “(including the expected increase in cur-
4 rent liability due to benefits accruing during the
5 plan year)” after “current liability”.

6 (B) Section 302(c)(7) is further amended
7 by inserting in flush language after subpara-
8 graph (A), a new sentence to read as follows:
9 “‘In any plan year in which a plan has unfunded
10 current liability under subsection (d)(8), the
11 amount in this subparagraph (A) shall not be
12 less than such unfunded current liability.’”

13 (C) Subparagraph (B) of subsection
14 302(c)(7) is amended to read as follows:

15 “(B) CURRENT LIABILITY.—For purposes
16 of subparagraph (D) and subclause (I) of sub-
17 paragraph (A)(i), the term ‘current liability’
18 has the meaning given such term by subsection
19 (d)(7) (without regard to the interest rate and
20 mortality assumptions required therein, and
21 without regard to subparagraph (D) thereof).”

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall be effective for plan years beginning after
24 December 31, 1994.

1 **SEC. 122. LIMITATION ON CHANGES IN CURRENT LIABILITY**

2 **ASSUMPTIONS.**

3 (a) Section 302(c) of the Employee Retirement In-
4 come Security Act of 1974 (29 U.S.C. 1082(c)) is amend-
5 ed by redesignating paragraph (5) as subparagraph
6 (5)(A), and adding a new subparagraph (5)(B) to read
7 as follows:

8 “(B)(i) CHANGE IN ASSUMPTIONS RE-
9 QUIRES APPROVAL.—If the actuarial assump-
10 tions (other than the assumptions described in
11 subsection (d)(7)(C)) used to determine the
12 current liability for a plan are changed, the new
13 actuarial assumptions shall become the actuar-
14 ial assumptions used to determine current li-
15 ability for the plan only if the change is ap-
16 proved by the Secretary of the Treasury.

17 “(ii) Clause (i) shall not apply unless—

18 “(I) the plan is subject to the require-
19 ments of subsection (d);

20 “(II) the requirements of section
21 4043(b)(1) are met; and

22 “(III) the change in assumptions (de-
23 termined after taking into account any
24 changes in interest rate and mortality
25 table) results in a decrease in the un-
26 funded current liability of the plan for the

1 current plan year that is \$50,000,000 or
2 greater, or that is \$5,000,000 or greater
3 and that is 5 percent or more of the cur-
4 rent liability of the plan before such
5 change.”

6 (b) EFFECTIVE DATE.—The amendments made by
7 this section shall be effective with respect to assumption
8 changes in plan years beginning after October 28, 1993.
9 Assumption changes made in plan years beginning after
10 December 31, 1992 that would have required approval
11 under this amended section had it been in effect at the
12 time of such changes, shall not be effective for plan years
13 beginning after December 31, 1994 unless approved by
14 the Secretary of the Treasury.

15 **SEC. 123. RECOGNITION OF ALREADY BARGAINED**
16 **CHANGES IN LIABILITY.**

17 (a) Section 302(c) of the Employee Retirement In-
18 come Security Act of 1974 (29 U.S.C. 1082(c)) is amend-
19 ed by adding a new paragraph (12) at the end thereof
20 to read as follows:

21 “(12) PLAN LIABILITIES ARISING FROM
22 AMENDMENTS EFFECTIVE IN THE FUTURE.—A col-
23 lectively bargained plan described in section 413(a)
24 of the Internal Revenue Code of 1986 shall antici-
25 pate benefit increases scheduled to take effect during

1 the term of the collective bargaining agreement ap-
2 plicable to the plan at the same time and in the
3 same manner as if the plan amendment implement-
4 ing the provision of the collective bargaining agree-
5 ment were adopted by the parties when the parties
6 entered into the collective bargaining agreement.”

7 (b) EFFECTIVE DATE.—The amendments made by
8 this section shall be effective for plan years beginning after
9 December 31, 1994 with respect to collective bargaining
10 agreements in effect on or after January 1, 1995.

11 **SEC. 124. MODIFICATION OF QUARTERLY CONTRIBUTION**
12 **REQUIREMENT.**

13 (a) Section 302(e) of the Employee Retirement In-
14 come Security Act of 1974 (29 U.S.C. 1082(e)), as
15 amended by section 121 of this Act, is further amended
16 by adding at the end thereof a new paragraph (7) to read
17 as follows:

18 “(7) APPLICABILITY OF THIS SUBSECTION.—
19 This subsection applies only with respect to a plan
20 year for which the funded current liability percent-
21 age of such plan (within the meaning of subsection
22 (d)(8)(B)) for the preceding plan year is less than
23 100 percent.”

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall be effective for plan years beginning after
3 the date of enactment of this Act.

4 **TITLE II—AMENDMENTS RELAT-**
5 **ED TO TITLE IV OF THE EM-**
6 **PLOYEE RETIREMENT IN-**
7 **COME SECURITY ACT OF 1974**

8 **SEC. 201. REPORTABLE EVENTS.**

9 (a) RESPONSIBILITY FOR REPORTABLE EVENTS RE-
10 PORTING.—Section 4043(a) of the Employee Retirement
11 Income Security Act of 1974 (29 U.S.C. 1343(a)) is
12 amended—

13 (1) by inserting “, unless a notice has already
14 been provided with respect to such event” before the
15 period at the end of the first sentence;

16 (2) by inserting “or the contributing sponsor”
17 before “knows or has reason to know”; and

18 (3) by striking the last sentence.

19 (b) NOTIFICATION THAT EVENT IS ABOUT TO
20 OCCUR.—Section 4043 of such Act is amended by redesi-
21 gnating subsections (b), (c) and (d) as (c), (d) and (e), re-
22 spectively, and by inserting a new subsection (b) to read
23 as follows:

24 “(b)(1) The requirement of this subsection shall be
25 applicable to a contributing sponsor only if the aggregate

1 unfunded vested benefits at the close of the preceding plan
2 year (as determined under section 4006(a)(3)(E)(iii)) of
3 plans maintained by such sponsor and the members of
4 such sponsor's controlled group that are covered by this
5 title (taking into account only those plans with unfunded
6 vested benefits) exceed \$50,000,000.

7 “(2) No later than 30 days prior to the effective date
8 of an event described in paragraphs (9) and (13) of sub-
9 section (c) of this section, a contributing sponsor described
10 in paragraph (1) of this subsection shall notify the cor-
11 poration that the event is about to occur.

12 “(3) The corporation is authorized to waive the re-
13 quirement of this subsection with respect to any or all re-
14 portable events with respect to any contributing sponsor.”

15 (c) NEW REPORTABLE EVENTS.—Subsection
16 4043(c), as redesignated, is amended—

17 (1) by striking the “or” at the end of para-
18 graph (8); and

19 (2) by striking paragraph (9) and inserting,
20 after paragraph (8), new paragraphs (9) through
21 (13) to read as follows:

22 “(9) when, as a result of an event, a person
23 ceases to be a member of the controlled group;

24 “(10) when a contributing sponsor or a member
25 of a contributing sponsor's controlled group

1 liquidates in a case under title 11, United States
2 Code, or under any similar Federal law or law of a
3 State or political subdivision of a State;

4 “(11) when a contributing sponsor or a member
5 of a contributing sponsor’s controlled group declares
6 an extraordinary dividend (as defined in section
7 1059(c) of the Internal Revenue Code of 1986) or
8 redeems, in any 12-month period, an aggregate of
9 10 percent or more of the total combined voting
10 power of all classes of stock entitled to vote, or an
11 aggregate of 10 percent or more of the total value
12 of shares of all classes of stock, of a contributing
13 sponsor and all members of its controlled group;

14 “(12) when, in any 12-month period, an aggre-
15 gate of 3 percent or more of the benefit liabilities of
16 a plan covered by this title and maintained by a con-
17 tributing sponsor or a member of its controlled
18 group are transferred to a person that is not a mem-
19 ber of the controlled group or to a plan or plans
20 maintained by a person or persons that are not such
21 contributing sponsor or a member of its controlled
22 group; or

23 “(13) when any other event occurs that may be
24 indicative of a need to terminate the plan and that
25 is prescribed by the corporation in regulations.”

1 (d) DISCLOSURE EXEMPTION.—Section 4043 of such
2 Act is amended by adding at the end a new subsection
3 (f) to read as follows:

4 “(f) Any information or documentary material sub-
5 mitted to the corporation pursuant to subsection (c) or
6 subsection 4050(c)(2) shall be exempt from disclosure
7 under section 552 of title 5, United States Code, and no
8 such information or documentary material may be made
9 public, except as may be relevant to any administrative
10 or judicial action or proceeding. Nothing in this section
11 is intended to prevent disclosure to either body of Con-
12 gress or to any duly authorized committee or subcommit-
13 tee of the Congress.”

14 (e) TECHNICAL AND CONFORMING AMENDMENTS.—
15 Subsection (a) of section 4043 of such Act, and sub-
16 sections (d) and (e) of such section 4043, as redesignated
17 by this Act, are amended by replacing “subsection (b)”
18 each time it appears with “subsection (c)”. Section
19 4042(a)(3) of such Act is amended by replacing
20 “4043(b)(7)” with “4043(c)(7)”.

21 (f) EFFECTIVE DATE.—The amendments made by
22 this section shall be effective for events occurring 60 days
23 or more after the date of enactment of this Act.

1 **SEC. 202. ALTERNATIVE TO INVOLUNTARY TERMINATION.**

2 (a) GENERAL RULE.—Subtitle C of title IV of the
3 Employee Retirement Income Security Act of 1974 is
4 amended by adding at the end thereof a new section 4050
5 to read as follows:

6 **“SEC. 4050. JUDICIAL RELIEF OTHER THAN INVOLUNTARY**
7 **TERMINATION.**

8 “(a)(1) Whenever the corporation determines (with-
9 out regard to the potential availability of relief under this
10 section) that, upon the occurrence of an event described
11 in section 4043(c) (9) through (13), the possible long-run
12 loss of the corporation with respect to a plan may reason-
13 ably be expected to increase unreasonably if the plan is
14 not terminated, the corporation may, in its discretion, in-
15 stitute proceedings under this section as an alternative to
16 instituting proceedings under section 4042 to terminate
17 the plan.

18 “(2) In the case of an event described in section
19 4043(c) (9) or (13), this section shall apply only if, imme-
20 diately after the effective date of the event, the total reve-
21 nues, the total operating income, or the total assets of a
22 contributing sponsor and all members of its controlled
23 group would be less than 90 percent of the total revenues,
24 the total operating income, or the total assets, respec-
25 tively, of a contributing sponsor and all members of its
26 controlled group immediately before the effective date of

1 the event. For purposes of this paragraph, all events oc-
2 ccurring in any 12-month period shall be treated as a single
3 event.

4 “(b) Whenever the corporation makes a determina-
5 tion under subsection (a), it may, upon notice to a contrib-
6 uting sponsor, apply to the appropriate United States dis-
7 trict court for such legal or equitable relief as the corpora-
8 tion deems appropriate and consistent with its duties
9 under this title. The court shall consider the interests of
10 both the participants and the corporation, and shall grant
11 such relief, if any, as it determines is necessary to protect
12 those interests without interfering unreasonably with the
13 business of the contributing sponsor or members of its
14 controlled group.

15 “(c)(1) In any case in which the corporation is pro-
16 vided with a notice required by subsection 4043(b) within
17 the time specified in that subsection, the corporation may
18 bring an action under this section no later than 30 days
19 after the date such notice is received. Notwithstanding the
20 preceding sentence, the corporation may, no later than 30
21 days after the date such notice is received, require the sub-
22 mission of additional information or documentary mate-
23 rial, in which case an action under this section may be
24 brought no later than 20 days after the corporation re-

1 ceives all the information and documentary material it had
2 required.

3 “(2) A person who has provided a notice as described
4 in paragraph (1) may elect, upon further notice to the cor-
5 poration, to proceed with an event prior to the expiration
6 of the time periods described in paragraph (1). In that
7 event, an action under this section may be brought at any
8 time within the period specified in subsection 4003(e)(6).

9 “(3) In any case in which the corporation is not pro-
10 vided with a notice required by subsection 4043(b) by the
11 time specified in that subsection, where a person fails or
12 refuses to provide the additional information or documen-
13 tary material required by the corporation under paragraph
14 (1), or where a person proceeds with the event without
15 providing the corporation with the further notice required
16 under paragraph (2), an action under this section may be
17 brought at any time within the time period specified in
18 subsection 4003(e)(6).

19 “(4) Except as provided in paragraph (1), (2) or (3),
20 an action under this section may not be brought after the
21 effective date of the event giving rise to the transaction.

22 “(5) For purposes of applying subsection 4003(e)(6)
23 to paragraphs (2) and (3), a cause of action shall be
24 deemed to arise on the effective date of the event.

1 “(d) Nothing in this section shall limit the authority
2 of the corporation to initiate proceedings to terminate a
3 plan under section 4042, or to initiate proceedings or to
4 seek relief under any other provision of this title or any
5 other law.”

6 (b) CONFORMING AMENDMENT.—Section 4042(a) of
7 such Act (29 U.S.C. 1342(a)) is amended by inserting,
8 after “determines” the first time it appears, the following:
9 “(without regard to the potential availability of relief
10 under section 4050)”.

11 (c) CLERICAL AMENDMENT.—The table of contents
12 contained in section 1 of such Act is amended by inserting
13 after the item relating to section 4048 the following new
14 item:

“Sec. 4050. Judicial relief other than involuntary termination.”

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall be effective for events occurring on or
17 after 60 days after the enactment of this Act.

18 **SEC. 203. CERTAIN INFORMATION REQUIRED TO BE FUR-**
19 **NISHED TO PBGC.**

20 (a) GENERAL RULE.—Subtitle A of title IV of the
21 Employee Retirement Income Security Act of 1974 is
22 amended by adding at the end thereof a new section 4010
23 to read as follows:

1 **“SEC. 4010. AUTHORITY TO REQUIRE CERTAIN INFORMA-**
2 **TION.**

3 “(a) Each person described in subsection (b) shall
4 provide the corporation annually, on or before a date spec-
5 ified by the corporation in regulations, with—

6 “(1) such records, documents, or other informa-
7 tion that the corporation specifies in regulations as
8 necessary to determine the liabilities and assets of
9 plans covered by this title; and

10 “(2) copies of such person’s audited (or, if un-
11 available, unaudited) financial statements, and such
12 other financial information as the corporation may
13 prescribe in regulations.

14 “(b) The persons covered by subsection (a) are each
15 contributing sponsor, and each member of a contributing
16 sponsor’s controlled group, of a single-employer plan cov-
17 ered by this title, where—

18 “(1) the aggregate unfunded vested benefits at
19 the end of the preceding plan year (as determined
20 under section 4006(a)(3)(E)(iii)) of plans main-
21 tained by the contributing sponsor and the members
22 of its controlled group (taking into account only
23 those plans of the contributing sponsor and its con-
24 trolled group with unfunded vested benefits) exceed
25 \$50,000,000; or

1 “(2) the conditions for imposition of a lien de-
2 scribed in section 302(f)(1)(A) and (B) or section
3 412(n)(1)(A) and (B) of the Internal Revenue Code
4 of 1986 have been met with respect to any such
5 plan; or

6 “(3) minimum funding waivers in excess of
7 \$1,000,000 have been granted with respect to any
8 such plan, and any portion thereof is still outstand-
9 ing.

10 “(c) Any information or documentary material sub-
11 mitted to the corporation pursuant to this section shall
12 be exempt from disclosure under section 552 of title 5,
13 United States Code, and no such information or documen-
14 tary material may be made public, except as may be rel-
15 evant to any administrative or judicial action or proceed-
16 ing. Nothing in this section is intended to prevent disclo-
17 sure to either body of Congress or to any duly authorized
18 committee or subcommittee of the Congress.”

19 (b) CLERICAL AMENDMENT.—The table of contents
20 contained in section 1 of such Act is amended by inserting
21 after the item relating to section 4009 the following new
22 item:

 “Sec. 4010. Authority to require certain information.”

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall be effective on the date of enactment of
25 this Act.

1 **SEC. 204. LIABILITY UPON LIQUIDATION OF CONTRIBUTING**
2 **SPONSOR OR CONTROLLED GROUP MEMBER**
3 **WHERE PLAN REMAINS ONGOING.**

4 (a) IN GENERAL.—Section 4062 of the Employee Re-
5 tirement Income Security Act of 1974 (29 U.S.C. 1362)
6 is amended by adding at the end thereof a new subsection
7 (f) to read as follows:

8 “(f) LIABILITY ON LIQUIDATION OF CONTRIBUTING
9 SPONSOR OR CONTROLLED GROUP MEMBER.—

10 “(1) IN GENERAL.—In any case in which all or
11 substantially all of the assets of a person who is a
12 contributing sponsor of a single-employer plan, or a
13 member of a controlled group of a contributing
14 sponsor of a single-employer plan, are liquidated in
15 a case under title 11, United States Code, or under
16 any similar Federal law or law of a State or political
17 subdivision of a State, but the plan is not termi-
18 nated, such person shall be deemed liable under sub-
19 section (b) as if the plan had terminated under sec-
20 tion 4041(c) in the course of such liquidation and as
21 if the termination date were the date determined by
22 the corporation as the date on which the liquidation
23 was initiated.

24 “(2) APPLICABILITY OF OTHER PROVISIONS.—
25 The liability under this subsection shall be joint and
26 several only among the members of the controlled

1 group (including, where applicable, the contributing
2 sponsor) who are liquidating as described in para-
3 graph (1). Subject to that exception, any provision
4 of this Act or any other provision of law that applies
5 to liability under this section upon termination of a
6 plan shall apply in the same manner and to the
7 same extent to the liability established under this
8 subsection. For purposes of this paragraph, the date
9 referred to in paragraph (1) shall be deemed the ter-
10 mination date.

11 “(3) LIABILITY OWED TO PLAN; TRANSFER OF
12 LIABILITY PAYMENTS TO THE ONGOING PLAN
13 WHERE COLLECTED BY THE CORPORATION.—The li-
14 ability established under this subsection shall be
15 owed to the plan, and may be collected by either the
16 plan or the corporation. The corporation shall pay to
17 the plan any amounts collected by the corporation in
18 satisfaction of the liability established under this
19 subsection in connection with such plan.

20 “(4) REGULATIONS.—The corporation may pre-
21 scribe regulations under this subsection, including—

22 “(A) rules governing—

23 “(i) the determination of whether and
24 when a liquidation referred to in this sub-
25 section has occurred, and

1 “(ii) the assignment of the plan’s or
2 corporation’s claim to liability payments
3 under this subsection to other members of
4 the controlled group as a means of collect-
5 ing such payments, subject to the transfer
6 of such payments to the plan, and

7 “(B) rules providing alternative arrange-
8 ments for making liability payments under this
9 subsection.”

10 (b) CONFORMING AMENDMENT.—Section 4062(a) of
11 such Act is amended—

12 (1) by striking “and” after “subsection (b),”;
13 and

14 (2) by striking the period after “subsection (c)”
15 and inserting “, and”; and

16 (3) by adding a new paragraph (3) at the end
17 thereof to read as follows:

18 “(3) liability to the plan, to the extent provided
19 in subsection (f).”

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall be effective for liquidations initiated on
22 or after the date of enactment of this Act.

1 **SEC. 205. ENFORCEMENT OF MINIMUM FUNDING REQUIRE-**
2 **MENTS.**

3 (a) IN GENERAL.—Paragraph (1) of section 4003(e)
4 of the Employee Retirement Income Security Act of 1974
5 (29 U.S.C. 1303(e)(1)) is amended by inserting “(i)” after
6 “enforce” and by striking the period after “title” and in-
7 serting “, and (ii) in the case of a plan covered under this
8 title (other than a multiemployer plan) and for which the
9 conditions for imposition of a lien described in section
10 302(f)(1)(A) and (B) or section 412(n)(1)(A) and (B) of
11 the Internal Revenue Code of 1986 have been met, section
12 302 of this Act and section 412 of the Internal Revenue
13 Code of 1986.”

14 (b) EFFECTIVE DATE.—The amendments made by
15 this section shall be effective for installments and other
16 payments required under section 302 of the Employee Re-
17 tirement Income Security Act of 1974 or section 412 of
18 the Internal Revenue Code of 1986 that become due on
19 or after the date of the enactment of this Act.

20 **SEC. 206. REMEDIES FOR NONCOMPLIANCE WITH REQUIRE-**
21 **MENTS FOR STANDARD TERMINATION.**

22 (a) NOTICE OF NONCOMPLIANCE.—Section
23 4041(b)(2)(C)(i) of the Employee Retirement Income Se-
24 curity Act of 1974 (29 U.S.C. 1341(b)(2)(C)(i)) is amend-
25 ed—

26 (1) by revising subclause (I) to read as follows:

1 “(I) it determines, based on the
2 notice sent under paragraph (2)(A) of
3 subsection (b), that there is reason to
4 believe that the plan is not sufficient
5 for benefit liabilities, or”;

6 (2) by striking the period that follows subclause
7 (II), and inserting “, or”; and

8 (3) by adding a new subclause (III) to read as
9 follows:

10 “(III) it determines that any
11 other requirement of subparagraph
12 (A) or (B) of this paragraph or of
13 subsection (a)(2) has not been met,
14 unless it further determines that the
15 issuance of such notice would be in-
16 consistent with the interests of par-
17 ticipants and beneficiaries.”

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to any plan termination under sec-
20 tion 4041(b) of the Employee Retirement Income Security
21 Act of 1974 with respect to which the Pension Benefit
22 Guaranty Corporation has not, as of the date of enactment
23 of this Act, issued a notice of noncompliance that has be-
24 come final, or otherwise issued a final determination that
25 the plan termination is nullified.

1 **SEC. 207. PROHIBITION ON BENEFIT INCREASES WHERE**
2 **PLAN SPONSOR IS IN BANKRUPTCY.**

3 (a) Section 204 of the Employee Retirement Income
4 Security Act of 1974 (29 U.S.C. 1054), as amended by
5 section 121(b) of this Act, is further amended by redesi-
6 gnating subsection (j) as (k) and inserting a new subsection
7 (j) to read as follows:

8 “(j)(1) In the case of a plan described in paragraph
9 (3) which is maintained by an employer that is a debtor
10 in a case under title 11, United States Code, or similar
11 Federal or State law, no amendment of the plan which
12 increases the liabilities of the plan by reason of any in-
13 crease in benefits, any change in the accrual of benefits,
14 or any change in the rate at which benefits become non-
15 forfeitable under the plan, with respect to employees of
16 the debtor, shall be effective prior to the effective date of
17 such employer’s plan of reorganization.

18 “(2) Paragraph (1) shall not apply to any plan
19 amendment that—

20 “(A) the Secretary of Treasury determines to
21 be reasonable and that provides for only de minimis
22 increases in the liabilities of the plan with respect to
23 employees of the debtor,

24 “(B) only repeals an amendment described in
25 section 302(c)(8),

1 “(C) is required as a condition of qualification
2 under part I of subchapter D, of chapter 1, of the
3 Internal Revenue Code of 1986, or

4 “(D) was adopted prior to, or pursuant to a col-
5 lective bargaining agreement entered into prior to,
6 the date on which the employer became a debtor in
7 a case under title 11, United States Code, or similar
8 Federal or State law.

9 “(3) This subsection shall apply only to plans (other
10 than multiemployer plans) covered under section 4021 of
11 this Act for which the funded current liability percentage
12 (within the meaning of section 302(d)(8)(B) of this Act)
13 is less than 100 percent after taking into account the ef-
14 fect of the amendment.

15 “(4) For purposes of this subsection, ‘employer’ has
16 the meaning set forth in section 302(c)(11)(A), without
17 regard to section 302(c)(11)(B).”

18 (b) Section 410(a) of the Internal Revenue Code of
19 1986, as amended by section 101(b) of this Act, is further
20 amended by adding at the end thereof a new paragraph
21 (33) to read as follows:

22 “(33) PROHIBITION ON BENEFIT INCREASES
23 WHILE SPONSOR IS IN BANKRUPTCY.—

24 “(A) IN GENERAL.—A trust shall not con-
25 stitute a qualified trust under this section if the

1 plan of which such trust is a part is amended
2 while the employer is a debtor in a case under
3 title 11, United States Code, or similar federal
4 or state law, where such amendment increases
5 liabilities of the plan by reason of any increase
6 in benefits, any change in the accrual of bene-
7 fits, or any change in the rate at which benefits
8 become nonforfeitable under the plan, with re-
9 spect to employees of the debtor, and is effec-
10 tive prior to the effective date of such employ-
11 er's plan of reorganization.

12 “(B) EXCEPTIONS.—This paragraph shall
13 not apply to any plan amendment that—

14 “(i) the Secretary determines to be
15 reasonable and that provides for only de
16 minimis increases in the liabilities of the
17 plan with respect to employees of the
18 debtor,

19 “(ii) only repeals an amendment de-
20 scribed in subsection 412(c)(8),

21 “(iii) is required as a condition of
22 qualification under this part, or

23 “(iv) was adopted prior to the date on
24 which the employer became a debtor in a

1 case under title 11, United States Code, or
2 similar federal or state law.

3 “(C) PLANS TO WHICH THIS PARAGRAPH
4 APPLIES.—This paragraph shall apply only to
5 plans (other than multiemployer plans) covered
6 under section 4021 of the Employee Retirement
7 Income Security Act of 1974 for which the
8 funded current liability percentage (within the
9 meaning of section 412(l)(8)(B)) is less than
10 100 percent after taking into account the effect
11 of the amendment.

12 “(D) DEFINITIONS.—For purposes of this
13 paragraph, ‘employer’ has the meaning set
14 forth in section 412(c)(11)(A), without regard
15 to section 412(c)(11)(B).”

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall be effective with respect to plan amend-
18 ments adopted on or after the date of enactment of this
19 Act.

20 **SEC. 208. SUBSTANTIAL OWNER BENEFITS.**

21 (a) MODIFICATION OF PHASE IN OF GUARANTEE.—
22 Section 4022(b)(5) is amended by revising subparagraphs
23 (B) and (C) to read as follows:

24 “(B) For purposes of this title, the term
25 ‘majority owner’ has the same meaning as the

1 term ‘substantial owner’, except that ‘50 per-
2 cent or more’ shall be substituted for ‘more
3 than 10 percent’ wherever such phrase appears
4 in subparagraph (A) of this paragraph.

5 “(C) In the case of a participant who is a
6 majority owner, the amount of benefits guaran-
7 teed under this section shall not exceed the
8 product of—

9 “(i) a fraction (not to exceed 1) the
10 numerator of which is the number of years
11 from the later of the effective date or the
12 adoption date of the plan, and the denomi-
13 nator of which is 30, and

14 “(ii) the amount of the majority own-
15 er’s monthly benefits guaranteed under
16 subsection (a) (as limited by paragraph (3)
17 of this subsection).”

18 (b) MODIFICATION OF ALLOCATION OF ASSETS.—

19 (1) Section 4044(a)(4)(B) is revised by adding
20 “(C)” after “section 4022(b)(5)”.

21 (2) Section 4044(b) is revised—

22 (A) by adding “(4),” before “(5)” in para-
23 graph (2), and

24 (B) by renumbering paragraphs (3)
25 through (6) as (4) through (7), respectively,

1 and inserting a new paragraph (3) to read as
2 follows:

3 “(3) If assets available for allocation under
4 paragraph (4) of subsection (a) are insufficient to
5 satisfy in full the benefits of all individuals who are
6 described in that paragraph, the assets shall be allo-
7 cated first to benefits described in subparagraph (A)
8 of that paragraph. Any remaining assets shall then
9 be allocated to subparagraph (B). If assets allocated
10 to subparagraph (B) are insufficient to satisfy in full
11 the benefits in that subparagraph, the assets shall
12 be allocated pro rata among individuals on the basis
13 of the present value (as of the termination date) of
14 their respective benefits described in that subpara-
15 graph.”

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall be effective for plan terminations under
18 section 4041(c) with respect to which notices of intent to
19 terminate are provided under section 4041(a)(2), or under
20 section 4042 with respect to which proceedings are insti-
21 tuted by the corporation, on or after the date of enactment
22 of this Act.

23 **SEC. 209. PHASE-OUT OF VARIABLE RATE PREMIUM CAP.**

24 (a) Subparagraph (E) of section 4006(a)(3) of the
25 Employee Retirement Income Security Act of 1974 is

1 amended by deleting clause (iv) and redesignating clause
2 (v) as clause (iv).

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall be effective on the date of enactment of
5 this Act, except that, for plan years beginning on or after
6 July 1, 1994 and before July 1, 1996, the additional pre-
7 mium payable with respect to any participant by reason
8 of this amendment shall not exceed the sum of—

9 (1) \$53, and

10 (2) the excess (if any) of the amount deter-
11 mined under clause (ii) of section 4006(a)(3)(E) of
12 the Employee Retirement Income Security Act of
13 1974 over \$53 multiplied by the applicable percent-
14 age. For purposes of this clause, the applicable per-
15 centage shall be as follows:

| Plan year beginning: | | The applicable percentage is: |
|----------------------|--------------------|----------------------------------|
| on or after | but before | |
| July 1, 1994 | July 1, 1995 | 20 |
| July 1, 1995 | July 1, 1996 | 60 |

16 **TITLE III—PARTICIPANT**
17 **SERVICES**

18 **SEC. 301. DISCLOSURE TO PARTICIPANTS.**

19 (a) PARTICIPANT NOTICE REQUIREMENT.—Subtitle
20 A of Title IV of the Employee Retirement Income Security
21 Act of 1974, as amended by section 203 of this Act, is

1 further amended by adding at the end thereof a new sec-
2 tion 4011 to read as follows:

3 **“SEC. 4011. NOTICE TO PARTICIPANTS.**

4 “The plan administrator of a plan subject to the ad-
5 ditional premium under section 4006(a)(3)(E) shall pro-
6 vide, in a form and manner and at such time as prescribed
7 in regulations of the corporation, notice to plan partici-
8 pants and beneficiaries of the plan’s funding status and
9 the limits on the corporation’s guaranty should the plan
10 terminate while underfunded. Such notice shall be written
11 in a manner so as to be understood by the average plan
12 participant.”

13 (b) CLERICAL AMENDMENT.—The table of contents
14 contained in section 1 of such Act is amended by inserting
15 after the item relating to section 4010 (as added by sec-
16 tion 203 of this Act) the following new item:

“Sec. 4011. Notice to participants.”

17 (c) EFFECTIVE DATE.—The amendment made by
18 this section shall be effective for plan years beginning after
19 the date of enactment of this Act.

20 **SEC. 302. MISSING PARTICIPANTS.**

21 (a) Subtitle B of Title IV of the Employee Retirement
22 Income Security Act of 1974 is amended by adding a new
23 section 4031 at the end thereof to read as follows:

24 **“SEC. 4031. MISSING PARTICIPANTS.**

25 “(a) GENERAL RULE.—

1 “(1) PAYMENT TO THE CORPORATION.—A plan
2 administrator satisfies section 4041(b)(3)(A) in the
3 case of a missing participant only if the plan admin-
4 istrator—

5 “(A) transfers the participant’s designated
6 benefit to the corporation or purchases an irrev-
7 ovable commitment from an insurer in accord-
8 ance with clause (i) of section 4041(b)(3)(A),
9 and

10 “(B) provides the corporation such infor-
11 mation and certifications with respect to such
12 designated benefits or irrevocable commitments
13 as the corporation shall specify.

14 “(2) TREATMENT OF TRANSFERRED ASSETS.—
15 A transfer to the PBGC under this section shall be
16 treated as a transfer of assets from a terminated
17 plan to the corporation as trustee, and shall be held
18 with assets of terminated plans for which the cor-
19 poration is trustee under section 4042, subject to
20 the rules set out in that section.

21 “(3) PAYMENT BY THE CORPORATION.—After a
22 missing participant whose designated benefit was
23 transferred to the corporation is located—

24 “(A) if the plan could have distributed the
25 benefit of a missing participant in a single sum

1 without participant or spousal consent under
2 section 205(g), the corporation shall pay the
3 participant or beneficiary a single sum benefit
4 equal to the designated benefit paid the cor-
5 poration plus interest as specified by the cor-
6 poration.

7 “(B) in the case of any other missing par-
8 ticipant, the corporation shall pay a benefit
9 based on the designated benefit and the as-
10 sumptions prescribed by the corporation at the
11 time that the corporation received the des-
12 ignated benefit. The corporation shall make
13 such payments available in the same forms and
14 at the same times as a guaranteed benefit
15 under section 4022 would be available to be
16 paid, except that the corporation may make a
17 benefit available in the form of a single sum if
18 the plan provided a single sum benefit (other
19 than a single sum described in subsection
20 (b)(2)(A)).

21 “(b) DEFINITIONS.—

22 “(1) A ‘missing participant’ means a partici-
23 pant or beneficiary under a terminating plan whom
24 the plan administrator cannot locate after a diligent
25 search.

1 “(2) A ‘designated benefit’ means the single
2 sum benefit the participant would receive—

3 “(A) under the plan’s assumptions, in the
4 case of a distribution that can be made without
5 participant or spousal consent under section
6 205(g);

7 “(B) under the assumptions of the cor-
8 poration in effect on the date that the des-
9 ignated benefit is transferred to the corpora-
10 tion, in the case of a plan that does not pay any
11 single sums other than those described in sub-
12 paragraph (A); or

13 “(C) under the assumptions of the cor-
14 poration or of the plan, whichever provides the
15 higher single sum, in the case of a plan that
16 does pay a single sum other than those de-
17 scribed in subparagraph (A).

18 “(c) REGULATORY AUTHORITY.—The corporation
19 shall prescribe such regulations as are necessary to carry
20 out the purposes of this section, including rules as to what
21 will be considered a diligent search, the amount payable
22 to the corporation, and the amount to be paid by the cor-
23 poration.”

24 (b) CONFORMING TITLE IV AMENDMENTS.—

1 (1) AMENDMENT TO SECTION 4003.—Section
2 4003(a) of such Act is amended by adding “and
3 whether section 4031(a) has been satisfied” at the
4 end of the second sentence.

5 (2) AMENDMENT TO SECTION 4005.—Section
6 4005(b)(2)(A) of such Act is amended by adding “or
7 benefits payable under section 4031” after “section
8 4022A”.

9 (3) AMENDMENT TO SECTION 4041.—Section
10 4041(b)(3)(A)(ii) of such Act is amended by adding
11 a sentence at the end thereof to read as follows: “A
12 transfer of assets to the corporation in accordance
13 with section 4031 on behalf of a missing participant
14 shall satisfy this subparagraph with respect to such
15 participant.”

16 (c) CONFORMING ERISA AMENDMENTS.—

17 (1) The table of contents contained in section
18 1 of the Employee Retirement Income Security Act
19 of 1974 is amended by inserting after the item relat-
20 ed to section 4030 the following new item:

 “Sec. 4031. Missing Participants.”

21 (2) Section 206 of such Act is amended by add-
22 ing at the end thereof a new subsection (e) to read
23 as follows:

24 “(e) MISSING PARTICIPANTS IN TERMINATED
25 PLANS.—In the case of a plan covered by title IV of the

1 Employee Retirement Income Security Act of 1974, the
2 plan shall provide that, upon termination of the plan, ben-
3 efits of missing participants shall be treated in accordance
4 with section 4031 of such Act.”

5 “(d) CONFORMING INTERNAL REVENUE CODE
6 AMENDMENTS.—Section 401(a) of the Internal Revenue
7 Code of 1986, as amended by section 207 of this Act, is
8 further amended by adding at the end thereof a new para-
9 graph (34) to read as follows:

10 “(34) In the case of a plan covered by title IV
11 of the Employee Retirement Income Security Act of
12 1974, a trust forming part of such plan shall not be
13 treated as failing to constitute a qualified trust
14 under this section merely because the pension plan
15 of which such trust is a part, upon its termination,
16 transfers benefits of missing participants to the Pen-
17 sion Benefit Guaranty Corporation in accordance
18 with section 4031 of such Act.”

19 (e) EFFECTIVE DATE.—The provisions of this section
20 shall be effective with respect to distributions that occur
21 in plan years commencing after final regulations imple-
22 menting these provisions are adopted by the Pension Ben-
23 efit Guaranty Corporation.

1 **SEC. 303. MODIFICATION OF MAXIMUM GUARANTEE FOR**
2 **DISABILITY BENEFITS.**

3 (a) Section 4022(b)(3) of the Employee Retirement
4 Income Security Act of 1974 (29 U.S.C. 1322(b)(3)) is
5 amended by adding at the end thereof two new sentences
6 to read as follows: “The maximum guaranteed monthly
7 benefit shall not be reduced solely on account of the age
8 of a participant in the case of a benefit payable by reason
9 of disability, provided that the participant satisfies the
10 definition of disability under titles II and XVI of the So-
11 cial Security Act, as amended, and the regulations there-
12 under. If a benefit payable by reason of disability is con-
13 verted to an early or normal retirement benefit for reasons
14 other than a change in the health of the participant, such
15 early or normal retirement benefit shall be treated as a
16 continuation of the benefit payable by reason of disability
17 and this subparagraph shall continue to apply.”

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall be effective for plan terminations under
20 section 4041(c) with respect to which notices of intent to
21 terminate are provided under section 4041(a)(2), or under
22 section 4042 with respect to which proceedings are insti-
23 tuted by the corporation, on or after the date of enactment
24 of this Act.

1 **TITLE IV—MISCELLANEOUS**
2 **AMENDMENTS**

3 **SEC. 401. ERISA CITATION.**

4 (a) Section 404(g)(4) of the Internal Revenue Code
5 of 1986 is amended by striking “the Single Employer Pen-
6 sion Plan Amendments Act of 1986” and inserting “the
7 Retirement Protection Act of 1993”.

8 (b) EFFECTIVE DATE.—The amendments made by
9 this section shall be effective on the date of enactment of
10 this Act.

11 **SEC. 402. DEFINITION OF CONTRIBUTING SPONSOR.**

12 (a) Paragraph (13) of section 4001(a) of the Em-
13 ployee Retirement Income Security Act of 1974 (29
14 U.S.C. 1301(a)) is amended by deleting “means a per-
15 son—” and all that follows and inserting in lieu thereof
16 “means a person described in section 302(c)(11)(A) (with-
17 out regard to section 302(c)(11)(B)) of this Act or section
18 412(c)(11)(A) (without regard to section 412(c)(11)(B))
19 of the Internal Revenue Code of 1986.”

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall be effective as if included in the Pension
22 Protection Act.

23 **SEC. 403. RECOVERY RATIO UNDER ERISA SECTION 4022(c).**

24 (a) Sec. 4022(c)(3) of the Employee Retirement In-
25 come Security Act of 1974 (29 U.S.C. 1322(c)(3)) is

1 amended by deleting subparagraphs (A) and (B), and
2 amending subparagraph (C)—

3 (1) by deleting “(C)” and all that precedes
4 clause (i) and inserting in its place:

5 “For purposes of this section, the term ‘recov-
6 ery ratio’ means, with respect to the termination of
7 such plan, the ratio of—”; and

8 (2) by renumbering clauses (i) and (ii) as sub-
9 paragraphs (A) and (B), respectively.

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall be effective as if included in the Pension
12 Protection Act.

13 **SEC. 404. DISTRESS TERMINATION CRITERIA FOR BANKING**
14 **INSTITUTIONS.**

15 (a) CLARIFICATION OF DISTRESS CRITERION.—
16 Subclause (I) of section 4041(c)(2)(B)(i) of the Employee
17 Retirement Income Security Act of 1974 (29 U.S.C.
18 1341(c)(2)(B)(i)) is amended by inserting after “under
19 any similar” the words “Federal law or”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall be effective as if included in the Single-
22 Employer Pension Plan Amendments Act of 1986.

23 **SEC. 405. SINGLE SUM DISTRIBUTIONS.**

24 (a) MINIMUM BENEFITS.—

1 (1) Section 411(a)(11) of the Internal Revenue
2 Code of 1986 is amended by revising subparagraph
3 (B) to read as follows:

4 “(B) DETERMINATION OF PRESENT
5 VALUE.—For purposes of subparagraph (A),
6 the present value shall be calculated in accord-
7 ance with section 417(e)(3).”

8 (2) Section 417(e) of the Code is amended by
9 revising paragraph (3) to read as follows:

10 “(3) DETERMINATION OF PRESENT VALUE.—

11 “(A) IN GENERAL.—

12 “(i) PRESENT VALUE.—Except as
13 provided in subparagraph (B), for pur-
14 poses of paragraphs (1) and (2), the
15 present value shall not be less than the
16 present value calculated by using the appli-
17 cable mortality table and the applicable in-
18 terest rate.

19 “(ii) DEFINITIONS.—For purposes of
20 clause (i), the term ‘applicable mortality
21 table’ means the prevailing Commissioner’s
22 standard table (described in section
23 807(d)(5)(A)) that would be used to deter-
24 mine reserves for group annuity contracts
25 issued on the date as of which present

1 value is being determined (without regard
2 to any other subparagraph of section
3 807(d)(5)), and the term ‘applicable inter-
4 est rate’ means the rate of interest on a
5 30-year Treasury security (as of the date
6 of distribution).

7 “(B) EXCEPTION.—In the case of a dis-
8 tribution from a plan that was adopted and in
9 effect prior to the enactment of the Retirement
10 Protection Act of 1993, the present value of
11 any distribution made before the earlier of (i)
12 the later of when a plan amendment applying
13 subparagraph (A) is adopted or made effective
14 or (ii) the first day of the first plan year begin-
15 ning after December 31, 1999 shall be cal-
16 culated, for purposes of paragraphs (1) and (2),
17 using the interest rate determined under the
18 regulations of the Pension Benefit Guaranty
19 Corporation for determining the present value
20 of a lump sum distribution on plan termination
21 that were in effect on September 1, 1993 and
22 under the provisions of the plan and the Code
23 that were in effect immediately before such en-
24 actment, provided that such plan provisions sat-

1 isfied section 417(e)(3) as in effect at such
2 time.”

3 (b) MAXIMUM BENEFITS.—Section 415(b)(2)(E) of
4 the Code is amended—

5 (1) by redesignating clauses (ii) and (iii) as
6 clauses (iii) and (iv), respectively,

7 (2) by revising clause (i) and adding a new
8 clause (ii) to read as follows:

9 “(i) For purposes of adjusting any
10 benefit or limitation under subparagraph
11 (B), the interest rate assumption shall not
12 be less than the greater of 5 percent or the
13 rate specified in the plan; provided that for
14 purposes of adjusting the benefit or limita-
15 tion of any form of benefit subject to sec-
16 tion 417(e)(3), the ‘applicable interest rate
17 under section 417(e)(3)’ shall be sub-
18 stituted for ‘5 percent’.

19 “(ii) For purposes of adjusting any
20 benefit or limitation under subparagraph
21 (C), the interest rate assumption shall not
22 be less than the greater of 5 percent or the
23 rate specified in the plan.”

24 and (3) by adding a new clause (v) to read as
25 follows:

1 “(v) For purposes of adjusting any
2 benefit or limitation under subparagraphs
3 (B), (C), or (D), the prevailing Commis-
4 sioner’s standard table (described in sec-
5 tion 807(d)(5)(A)) that would be used to
6 determined reserves for group annuity con-
7 tracts issued on the date as of which the
8 determination is being made (without re-
9 gard to any other subparagraph of section
10 807(d)(5)) shall be applied.”

11 (c)(1) Section 203(e) of the Employee Retirement In-
12 come Security Act of 1974 (29 U.S.C. 1053(e)) is amend-
13 ed by revising paragraph (2) to read as follows:

14 “(2) For purposes of paragraph (1), the present
15 value shall be calculated in accordance with section
16 205(g)(3).”

17 (2) Section 205(g) of such Act (29 U.S.C. 1055(g))
18 is amended by revising paragraph (3) to read as follows:

19 “(3) DETERMINATION OF PRESENT VALUE.—

20 “(A) IN GENERAL.—

21 “(i) PRESENT VALUE.—Except as
22 provided in subparagraph (B), for pur-
23 poses of paragraphs (1) and (2), the
24 present value shall not be less than the
25 present value calculated by using the appli-

1 cable mortality table and the applicable in-
2 terest rate.

3 “(ii) DEFINITIONS.—For purposes of
4 clause (i), the term ‘applicable mortality
5 table’ means the prevailing Commissioner’s
6 standard table (described in section
7 807(d)(5)(A) of the Internal Revenue Code
8 of 1986) that would be used to determine
9 reserves for group annuity contracts issued
10 on the date as of which present value is
11 being determined (without regard to any
12 other subparagraph of section 807(d)(5) of
13 the Internal Revenue Code of 1986), and
14 the term ‘applicable interest rate’ means
15 the rate of interest on a 30-year Treasury
16 security (as of the date of distribution).

17 “(B) EXCEPTION.—In the case of a dis-
18 tribution from a plan that was adopted and in
19 effect prior to the enactment of the Retirement
20 Protection Act of 1993, the present value of
21 any distribution made before the earlier of (i)
22 the later of when a plan amendment applying
23 subparagraph (A) is adopted or made effective
24 or (ii) the first day of the first plan year begin-
25 ning after December 31, 1999 shall be cal-

1 culated, for purposes of paragraphs (1) and (2),
2 using the interest rate determined under the
3 regulations of the Pension Benefit Guaranty
4 Corporation for determining the present value
5 of a lump sum distribution on plan termination
6 that were in effect on September 1, 1993 and
7 under the provisions of the plan and this Act
8 that were in effect immediately before such en-
9 actment, provided that such plan provisions sat-
10 isfied section 205(g)(3) as in effect at such
11 time.”

12 (d) EFFECTIVE DATE.—

13 (1) IN GENERAL.—The amendments made by
14 this section shall apply to plan years and limitation
15 years beginning after December 31, 1994, except
16 that an employer may elect to treat the amendments
17 made by this section as being effective on or after
18 the date of enactment.

19 (2) NO REDUCTION IN ACCRUED BENEFITS.—A
20 participant’s accrued benefit shall not be considered
21 to be reduced in violation of section 411(d)(6) of the
22 Internal Revenue Code of 1986 or section 204(g) of
23 the Employee Retirement Income Security Act of
24 1974 merely because (A) the benefit is determined
25 in accordance with section 417(e)(3)(A) of such

1 Code, as amended by this Act, or section 205(g)(3)
2 of the Employee Retirement Income Security Act of
3 1974, as amended by this Act, or (B) the plan ap-
4 plies section 415(b)(2)(E) of such Code, as amended
5 by this Act.

6 (3) SECTION 415.—

7 (A) NO REDUCTION REQUIRED.—An ac-
8 crued benefit shall not be required to be re-
9 duced below the accrued benefit as of the last
10 day of the last plan year beginning before Jan-
11 uary 1, 1995 merely because of the amend-
12 ments made by subsection (b).

13 (B) TIMING OF PLAN AMENDMENT.—A
14 plan that operates in accordance with the
15 amendments made by subsection (b) shall not
16 be treated as failing to satisfy section 401(a) of
17 the Internal Revenue Code of 1986 or as not
18 being operated in accordance with the provi-
19 sions of the plan until such date as the Sec-
20 retary provides merely because the plan has not
21 been amended to include the amendments made
22 by subsection (b).

1 **SEC. 406. ADJUSTMENTS TO LIEN FOR MISSED MINIMUM**
2 **FUNDING CONTRIBUTIONS.**

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

5 (1) CLARIFICATION OF APPLICABILITY OF PRO-
6 VISION.—Section 412(n)(1) of the Internal Revenue
7 Code of 1986 is amended by striking “to which this
8 section applies” and inserting “covered under sec-
9 tion 4021 of the Employee Retirement Income Secu-
10 rity Act of 1974”.

11 (2) REPEAL OF \$1,000,000 OFFSET.—Section
12 412(n)(3) of such Code is amended by striking all
13 that follows “equal to” through and including “(B)”.

14 (3) REPEAL OF 60-DAY DELAY.—Section
15 412(n)(4)(B) of such Code is amended by striking
16 “60th day following the”.

17 (b) AMENDMENTS TO THE EMPLOYEE RETIREMENT
18 INCOME SECURITY ACT OF 1974.—

19 (1) CLARIFICATION OF APPLICABILITY OF PRO-
20 VISION.—Section 302(f)(1) of the Employee Retire-
21 ment Income Security Act of 1974 (29 U.S.C.
22 1082(f)(1)) is amended by striking “to which this
23 section applies” and inserting “covered under sec-
24 tion 4021 of this Act”.

1 (b) COST OF LIVING ADJUSTMENT FOR MAXIMUM
2 DEFINED BENEFIT AMOUNT.—Section 415(d) of such
3 Code is amended to read as follows:

4 “(d) COST OF LIVING ADJUSTMENTS.—

5 “(1) IN GENERAL.—The Secretary shall adjust
6 annually—

7 “(A) the \$90,000 amount in subsection
8 (b)(1)(A), and

9 “(B) in the case of a participant who sepa-
10 rated from service, the amount taken into ac-
11 count under subsection (b)(1)(B),

12 for increases in the cost-of-living in accordance with
13 regulations prescribed by the Secretary.

14 “(2) METHOD.—

15 “(A) IN GENERAL.—The regulations pre-
16 scribed under paragraph (1) shall provide for
17 adjustment procedures which are similar to the
18 procedures used to adjust benefit amounts
19 under section 215(i)(2)(A) of the Social Secu-
20 rity Act.

21 “(B) PERIODS FOR ADJUSTMENT OF DOL-
22 LAR AMOUNT.—For purposes of paragraph
23 (1)(A)—

24 “(i) IN GENERAL.—The adjustment
25 with respect to any calendar year shall be

1 based on the increase in the applicable
2 index as of the close of the calendar quar-
3 ter ending September 30 of the preceding
4 calendar year over such index as of the
5 close of the base period.

6 “(ii) BASE PERIOD.—For purposes of
7 clause (i), the base period is the calendar
8 quarter beginning October 1, 1986.

9 “(C) BASE PERIOD FOR SEPARATIONS.—
10 For purposes of paragraph (1)(B), the base pe-
11 riod is the last calendar quarter of the calendar
12 year preceding the calendar year in which the
13 participant separated from service.

14 “(3) ROUNDING.—The adjusted value of the
15 \$90,000 amount in subsection (b)(1)(A) for a year
16 rounded down to the next lowest multiple of
17 \$5,000.”

18 (c) COST OF LIVING ADJUSTMENT FOR MAXIMUM
19 ANNUAL ADDITION.—

20 (1) Section 415(c) of such Code is amended by
21 adding a new paragraph (8) at the end thereof to
22 read as follows:

23 “(8) COST OF LIVING ADJUSTMENTS.—The
24 Secretary shall adjust annually the \$30,000 amount
25 in paragraph (c)(1)(A) for increases in the cost of

1 living at the same time and in the same manner as
2 adjustments under subsection (d), except that the
3 base period is the calendar quarter beginning Octo-
4 ber 1, 1993.”

5 (2) CONFORMING AMENDMENT.—Section
6 415(c)(1)(A) of such Code is amended by striking
7 “(or, if greater $\frac{1}{4}$ of the dollar limitation in effect
8 under subsection (b)(1)(A))” and inserting “or such
9 larger amount as provided under paragraph (8)”.

10 (d) COST OF LIVING ADJUSTMENT FOR MAXIMUM
11 SALARY DEFERRAL.—Section 402(g)(5) of such Code is
12 amended by inserting before the period at the end of that
13 paragraph the phrase “, except that the adjusted value
14 shall be rounded down to the next lowest multiple of
15 \$500”.

16 (e) COST OF LIVING ADJUSTMENT FOR ELIGIBILITY
17 FOR SIMPLIFIED EMPLOYEE PENSIONS.—Section
18 408(k)(8) of such Code is amended by inserting before the
19 period at the end of that paragraph the phrase “, except
20 that the adjusted value of the \$300 amount shall be
21 rounded down to the next lowest multiple of \$50”.

22 (f) EFFECTIVE DATE.—The amendments made by
23 this section shall be effective for years beginning after De-
24 cember 31, 1994.

1 **SEC. 408. LIMITATION ON CROSS-TESTING IN DEFINED**
2 **CONTRIBUTION PLANS.**

3 (a) Section 401(a)(5) of the Internal Revenue Code
4 of 1986 is amended by adding at the end thereof a new
5 subparagraph to read as follows:

6 “(F)(i) A defined contribution plan (other
7 than a target benefit plan that satisfies regula-
8 tions prescribed by the Secretary) shall be con-
9 sidered as satisfying the requirements of para-
10 graph (4) only if the contributions provided
11 under the plan satisfy the requirements of para-
12 graph (4).

13 “(ii) Two or more plans of an employer, at
14 least one of which is a defined contribution
15 plan, shall be considered as satisfying the re-
16 quirements of paragraph (4) when considered
17 as a single plan only if the contributions pro-
18 vided under the aggregated plans satisfy the re-
19 quirements of paragraph (4).”

20 (b)(1) Section 415(b)(6)(A) of such Code is amended
21 by inserting “that is a target benefit plan that satisfies
22 regulations prescribed by the Secretary” after “defined
23 contribution plan”.

24 (2) Section 415(b)(6)(B) is amended by striking
25 “and”.

1 (3) Subparagraph (C) of section 415(b)(6) is redesignig-
2 nated as subparagraph (D), and a new subparagraph (C)
3 is inserted to read as follows:

4 “(C) employer-provided benefits under a
5 defined contribution plan, for purposes of sec-
6 tion 410(b)(2), and”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall be effective for plan years beginning after
9 September 30, 1993; provided, however, that for defined
10 contribution plans in existence on September 30, 1993,
11 the amendments shall be effective for plan years beginning
12 on or after January 1, 1995.

13 **SEC. 409. FUNDING OF RESTORED PLANS.**

14 Any changes made by this Act to section 412 of the
15 Internal Revenue Code of 1986 or to part 3 of subtitle
16 B of title I of the Employee Retirement Income Security
17 Act of 1974 shall not apply to a plan which is, on the
18 date of enactment of this Act, subject to a restoration pay-
19 ment schedule order issued by the Pension Benefit Guar-
20 anty Corporation that meets the requirements of section
21 1.412(c)(1)–3 of the Treasury Regulations.

1 **TITLE V—EFFECTIVE DATES**

2 **SEC. 501. EFFECTIVE DATES.**

3 Except as otherwise provided in this Act, the amend-
4 ments made by this Act shall be effective on the date of
5 enactment of this Act.

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