

113TH CONGRESS  
1ST SESSION

# H. R. 2134

To provide an election for funding parity for charity-sponsored pension plans.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 23, 2013

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

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## A BILL

To provide an election for funding parity for charity-sponsored pension plans.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Charitable Pension  
5       Flexibility Act of 2013”.

6       **SEC. 2. ELECTION TO CEASE TO BE TREATED AS AN ELIGI-**  
7       **BLE CHARITY PLAN.**

8       (a) IN GENERAL.—Subsection (d) of section 104 of  
9       the Pension Protection Act of 2006, as added by section

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

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

6 (2) adding at the end the following:

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

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

18 “(A) IN GENERAL.—A plan sponsor that  
19 makes the election described in paragraph (2)  
20 may also elect for a plan to apply the rules de-  
21 scribed in subparagraphs (B), (C), and (D) for  
22 plan years beginning after December 31, 2013.  
23 Such election shall be made at such time and  
24 in such form and manner as shall be prescribed  
25 by the Secretary of the Treasury. Any such

1 election may be revoked only with the consent  
2 of the Secretary of the Treasury.

3 “(B) APPLICABLE SHORTFALL AMORTIZA-  
4 TION BASES.—Under the rules described in this  
5 subparagraph, for the first plan year beginning  
6 after December 31, 2013, a plan has—

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

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

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

13 “(C) DETERMINATION OF INSTALL-  
14 MENTS.—Under the rules described in this sub-  
15 paragraph, section 430(c)(2)(A) and (B) of the  
16 Internal Revenue Code of 1986 and section  
17 303(c)(2)(A) and (B) of the Employee Retire-  
18 ment Income Security Act of 1974 shall be ap-  
19 plied—

20 “(i) in the case of an 11-year shortfall  
21 amortization base, by substituting ‘11-  
22 plan-year period’ for ‘7-plan-year period’  
23 wherever it appears, and

24 “(ii) in the case a 12-year shortfall  
25 amortization base, by substituting ‘12-

1 plan-year period’ for ‘7-plan-year period’  
2 wherever it appears.

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

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

16 “(ii) All references in section  
17 430(c)(7) of such Code and in section  
18 303(c)(7) of such Act to ‘February 28,  
19 2010’ or ‘March 1, 2010’ shall be treated  
20 as references to ‘February 28, 2013’ or  
21 ‘March 1, 2013’, respectively.

22 “(E) 11-YEAR SHORTFALL AMORTIZATION  
23 BASE.—For purposes of this paragraph, the 11-  
24 year shortfall amortization base is an amount,  
25 determined for the first plan year beginning

1 after December 31, 2013, equal to the  
2 unamortized principal amount of the shortfall  
3 amortization base (as defined in section  
4 430(c)(3) of the Internal Revenue Code of 1986  
5 and section 303(c)(3) of the Employee Retirement  
6 Income Security Act of 1974) that would  
7 have applied to the plan for the first plan year  
8 beginning after December 31, 2009, if—

9 “(i) the plan had never been an eligi-  
10 ble charity plan.

11 “(ii) the plan sponsor had made the  
12 election described in section  
13 430(c)(2)(D)(i) of the Internal Revenue  
14 Code of 1986 and in section  
15 303(c)(2)(D)(i) of the Employee Retirement  
16 Income Security Act of 1974 to have  
17 section 430(c)(2)(D)(iii) of such Code and  
18 section 303(c)(2)(D)(iii) of such Act apply  
19 with respect to the shortfall amortization  
20 base for the first plan year beginning after  
21 December 31, 2009, and

22 “(iii) no event had occurred under  
23 paragraph (6) or (7) of section 430(c) of  
24 such Code or paragraph (6) or (7) of sec-  
25 tion 303(c) of such Act that, as of the first

1 day of the first plan year beginning after  
2 December 31, 2013, would have modified  
3 the shortfall amortization base or the  
4 shortfall amortization installments with re-  
5 spect to the first plan year beginning after  
6 December 31, 2009.

7 “(F) 12-YEAR SHORTFALL AMORTIZATION  
8 BASE.—For purposes of this paragraph, the 12-  
9 year shortfall amortization base is an amount,  
10 determined for the first plan year beginning  
11 after December 31, 2013, equal to the  
12 unamortized principal amount of the shortfall  
13 amortization base (as defined in section  
14 430(c)(3) of the Internal Revenue Code of 1986  
15 and section 303(c)(3) of the Employee Retire-  
16 ment Income Security Act of 1974) that would  
17 have applied to the plan for the first plan be-  
18 ginning after December 31, 2010, if—

19 “(i) the plan had never been an eligi-  
20 ble charity plan,

21 “(ii) the plan sponsor had made the  
22 election described in section  
23 430(c)(2)(D)(i) of the Internal Revenue  
24 Code of 1986 and in section  
25 303(c)(2)(D)(i) of the Employee Retire-

1           ment Income Security Act of 1974 to have  
2           section 430(c)(2)(D)(iii) of such Code and  
3           section 303(c)(2)(D)(iii) of such Act apply  
4           with respect to the shortfall amortization  
5           base for the first plan year beginning after  
6           December 31, 2010, and

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

17          “(G) 7-YEAR SHORTFALL AMORTIZATION  
18          BASE.—For purposes of this paragraph, the 7-  
19          year shortfall amortization base is an amount,  
20          determined for the first plan year beginning  
21          after December 31, 2013, equal to—

22               “(i) the shortfall amortization base for  
23               the first plan year beginning after Decem-  
24               ber 31, 2013, without regard to this para-  
25               graph, minus

1                   “(ii) the sum of the 11-year shortfall  
2                   amortization base and the 12-year shortfall  
3                   amortization base.”.

4           (b) EFFECTIVE DATE.—The amendments made by  
5 this section shall take effect on the date of the enactment  
6 of this Act.

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