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113TH CONGRESS
1ST SESSION

H. R. 2134

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

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Charitable Pension Flexibility Act of 2013".

SEC. 2. ELECTION TO CEASE TO BE TREATED AS AN ELIGIBLE CHARITY PLAN.

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

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

(1) striking "For purposes of" and inserting "(1) IN GENERAL.—For purposes of", and

(2) adding at the end the following:

"(2) ELECTION NOT TO BE AN ELIGIBLE CHARITY PLAN.—A plan sponsor may elect for a plan to cease to be treated as an eligible charity plan for plan years beginning after December 31, 2013. Such election shall be made at such time and in such form and manner as shall be prescribed by the Secretary of the Treasury. Any such election may be revoked only with the consent of the Secretary of the Treasury.

"(3) ELECTION TO USE FUNDING OPTIONS AVAILABLE TO OTHER PLAN SPONSORS.—

"(A) IN GENERAL.—A plan sponsor that makes the election described in paragraph (2) may also elect for a plan to apply the rules described in subparagraphs (B), (C), and (D) for plan years beginning after December 31, 2013. Such election shall be made at such time and in such form and manner as shall be prescribed by the Secretary of the Treasury. Any such election may be revoked only with the consent of the Secretary of the Treasury.

"(B) APPLICABLE SHORTFALL AMORTIZATION BASES.—Under the rules described in this subparagraph, for the first plan year beginning after December 31, 2013, a plan has—

"(i) an 11-year shortfall amortization base,

"(ii) a 12-year shortfall amortization base, and

"(iii) a 7-year shortfall amortization base.

"(C) DETERMINATION OF INSTALLMENTS.—Under the rules described in this subparagraph, section 430(c)(2)(A) and (B) of the Internal Revenue Code of 1986 and section 303(c)(2)(A) and (B) of the Employee Retirement Income Security Act of 1974 shall be applied—

"(i) in the case of an 11-year shortfall amortization base, by substituting '11-plan-year period' for '7-plan-year period' wherever it appears, and

"(ii) in the case a 12-year shortfall amortization base, by substituting '12-

plan-year period' for '7-plan-year period' wherever it appears.

"(D) ALTERNATE REQUIRED INSTALLMENTS.—Under the rules described in this subparagraph, section 430(c)(7) of the Internal Revenue Code of 1986 and section 303(c)(7) of the Employee Retirement Income Security Act of 1974 shall apply to a plan for which an election has been made under subparagraph (A). Such provisions shall apply in the following manner:

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

"(ii) All references in section 430(c)(7) of such Code and in section 303(c)(7) of such Act to 'February 28, 2010' or 'March 1, 2010' shall be treated as references to 'February 28, 2013' or 'March 1, 2013', respectively.

"(E) 11-YEAR SHORTFALL AMORTIZATION BASE.—For purposes of this paragraph, the 11-year shortfall amortization base is an amount, determined for the first plan year beginning after December 31, 2013, equal to the unamortized principal amount of the shortfall amortization base (as defined in section 430(c)(3) of the Internal Revenue Code of 1986 and section 303(c)(3) of the Employee Retirement Income Security Act of 1974) that would have applied to the plan for the first plan year beginning after December 31, 2009, if—

"(i) the plan had never been an eligible charity plan.

"(ii) the plan sponsor had made the election described in section 430(c)(2)(D)(i) of the Internal Revenue Code of 1986 and in section 303(c)(2)(D)(i) of the Employee Retirement Income Security Act of 1974 to have section 430(c)(2)(D)(iii) of such Code and section 303(c)(2)(D)(iii) of such Act apply with respect to the shortfall amortization base for the first plan year beginning after December 31, 2009, and

"(iii) no event had occurred under paragraph (6) or (7) of section 430(c) of such Code or paragraph (6) or (7) of section 303(c) of such Act that, as of the first day of the first plan year beginning after December 31, 2013, would have modified the shortfall amortization base or the shortfall amortization installments with respect to the first plan year beginning after December 31, 2009.

"(F) 12-YEAR SHORTFALL AMORTIZATION BASE.—For purposes of this paragraph, the 12-year shortfall amortization base is an amount, determined for the first plan year beginning after December 31, 2013, equal to the unamortized principal amount of the shortfall amortization base (as defined in section 430(c)(3) of the Internal Revenue Code of 1986 and section 303(c)(3) of the Employee Retirement Income Security Act of 1974) that would have applied to the plan for the first plan beginning after December 31, 2010, if—

"(i) the plan had never been an eligible charity plan,

"(ii) the plan sponsor had made the election described in section 430(c)(2)(D)(i) of the Internal Revenue Code of 1986 and in section 303(c)(2)(D)(i) of the Employee Retirement Income Security Act of 1974 to have section 430(c)(2)(D)(iii) of such Code and section 303(c)(2)(D)(iii) of such Act apply with respect to the shortfall amortization base for the first plan year beginning after December 31, 2010, and

"(iii) no event had occurred under paragraph (6) or (7) of section 430(c) of such Code or paragraph (6) or (7) of section 303(c) of such Act that, as of the first day of the first plan year beginning after December 31, 2013, would have modified the shortfall amortization base or the shortfall amortization installments with respect to the first plan year beginning after December 31, 2010.

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

"(i) the shortfall amortization base for the first plan year beginning after December 31, 2013, without regard to this paragraph, minus "(ii) the sum of the 11-year shortfall amortization base and the 12-year shortfall amortization base.".

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