

113TH CONGRESS
2D SESSION

S. 1302

AN ACT

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide for cooperative and small employer charity pension plans.

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

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

2 (a) SHORT TITLE.—This Act may be cited as the
 3 “Cooperative and Small Employer Charity Pension Flexi-
 4 bility Act”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Congressional findings and declarations of policy.

Sec. 3. Effective date.

TITLE I—AMENDMENTS TO EMPLOYEE RETIREMENT INCOME
 SECURITY ACT OF 1974 AND OTHER PROVISIONS

Sec. 101. Definition of cooperative and small employer charity pension plans.

Sec. 102. Funding rules applicable to cooperative and small employer charity
 pension plans.

Sec. 103. Elections.

Sec. 104. Transparency.

Sec. 105. Sponsor education and assistance.

TITLE II—AMENDMENTS TO INTERNAL REVENUE CODE OF 1986

Sec. 201. Definition of cooperative and small employer charity pension plans.

Sec. 202. Funding rules applicable to cooperative and small employer charity
 pension plans.

Sec. 203. Election not to be treated as a CSEC plan.

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

9 Congress finds as follows:

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

14 (2) Many cooperative associations and chari-
 15 table organizations are only able to provide their em-
 16 ployees with defined benefit pension plans because

1 those organizations are able to pool their resources
 2 using the multiple employer plan structure.

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

6 **SEC. 3. EFFECTIVE DATE.**

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

10 **TITLE I—AMENDMENTS TO EM-**
 11 **PLOYEE RETIREMENT IN-**
 12 **COME SECURITY ACT OF 1974**
 13 **AND OTHER PROVISIONS**

14 **SEC. 101. DEFINITION OF COOPERATIVE AND SMALL EM-**
 15 **PLOYER CHARITY PENSION PLANS.**

16 Section 210 of the Employee Retirement Income Se-
 17 curity Act of 1974 (29 U.S.C. 1060) is amended by adding
 18 at the end the following new subsection:

19 “(f) COOPERATIVE AND SMALL EMPLOYER CHARITY
 20 PENSION PLANS.—

21 “(1) IN GENERAL.—For purposes of this title,
 22 except as provided in this subsection, a CSEC plan
 23 is an employee pension benefit plan (other than a
 24 multiemployer plan) that is a defined benefit plan—

1 “(A) to which section 104 of the Pension
2 Protection Act of 2006 applies, without regard
3 to—

4 “(i) section 104(a)(2) of such Act;

5 “(ii) the amendments to such section
6 104 by section 202(b) of the Preservation
7 of Access to Care for Medicare Bene-
8 ficiaries and Pension Relief Act of 2010;
9 and

10 “(iii) paragraph (3)(B); or

11 “(B) that, as of June 25, 2010, was main-
12 tained by more than one employer and all of the
13 employers were organizations described in sec-
14 tion 501(c)(3) of the Internal Revenue Code of
15 1986.

16 “(2) AGGREGATION.—All employers that are
17 treated as a single employer under subsection (b) or
18 (c) of section 414 of the Internal Revenue Code of
19 1986 shall be treated as a single employer for pur-
20 poses of determining if a plan was maintained by
21 more than one employer under paragraph (1)(B).”.

1 **SEC. 102. FUNDING RULES APPLICABLE TO COOPERATIVE**
 2 **AND SMALL EMPLOYER CHARITY PENSION**
 3 **PLANS.**

4 (a) IN GENERAL.—Part 3 of title I of the Employee
 5 Retirement Income Security Act of 1974 (29 U.S.C. 1081
 6 et seq.) is amended by adding at the end the following
 7 new section:

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

9 “(a) GENERAL RULE.—For purposes of section 302,
 10 the term ‘accumulated funding deficiency’ for a CSEC
 11 plan means the excess of the total charges to the funding
 12 standard account for all plan years (beginning with the
 13 first plan year to which section 302 applies) over the total
 14 credits to such account for such years or, if less, the excess
 15 of the total charges to the alternative minimum funding
 16 standard account for such plan years over the total credits
 17 to such account for such years.

18 “(b) FUNDING STANDARD ACCOUNT.—

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

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

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

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

6 “(i) in the case of a plan in existence
7 on January 1, 1974, the unfunded past
8 service liability under the plan on the first
9 day of the first plan year to which section
10 302 applies, over a period of 40 plan years,

11 “(ii) in the case of a plan which comes
12 into existence after January 1, 1974, but
13 before the first day of the first plan year
14 beginning after December 31, 2013, the
15 unfunded past service liability under the
16 plan on the first day of the first plan year
17 to which section 302 applies, over a period
18 of 30 plan years,

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

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

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

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

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

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

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

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

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

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

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

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

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

“(C) the amount of the waived funding deficiency (within the meaning of section 302(c)(3)) for the plan year, and

“(D) in the case of a plan year for which the accumulated funding deficiency is determined under the funding standard account if such plan year follows a plan year for which such deficiency was determined under the alternative minimum funding standard, the excess (if any) of any debit balance in the funding standard account (determined without regard to this subparagraph) over any debit balance in the alternative minimum funding standard account.

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

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

“(B) may be offset against amounts required to be amortized under the other such paragraph, with the resulting amount to be amortized over a period determined on the basis of the remaining amortization periods for all items entering into whichever of the two amounts being offset is the greater.

“(5) INTEREST.—

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

“(B) EXCEPTION.—The interest rate used for purposes of computing the amortization charge described in subsection (b)(2)(C) or for purposes of any arrangement under subsection (d) for any plan year shall be the greater of—

“(i) 150 percent of the Federal mid-term rate (as in effect under section 1274 of the Internal Revenue Code of 1986 for the 1st month of such plan year), or

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

3 “(6) AMORTIZATION SCHEDULES IN EFFECT.—
4 Amortization schedules for amounts described in
5 paragraphs (2) and (3) that are in effect as of the
6 last day of the last plan year beginning before Janu-
7 ary 1, 2014, by reason of section 104 of the Pension
8 Protection Act of 2006 shall remain in effect pursu-
9 ant to their terms and this section, except that such
10 amounts shall not be amortized again under this sec-
11 tion.

12 “(c) SPECIAL RULES.—

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

19 “(2) VALUATION OF ASSETS.—

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

1 under regulations prescribed by the Secretary of
2 the Treasury.

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

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

15 “(A) each of which is reasonable (taking
16 into account the experience of the plan and rea-
17 sonable expectations), and

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

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

“(A) a change in benefits under the Social Security Act or in other retirement benefits created under Federal or State law, or

“(B) a change in the definition of the term ‘wages’ under section 3121 of the Internal Revenue Code of 1986 or a change in the amount of such wages taken into account under regulations prescribed for purposes of section 401(a)(5) of such Code,

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

“(5) FUNDING METHOD AND PLAN YEAR.—

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

“(B) CHANGES.—If the funding method for a plan is changed, the new funding method shall become the funding method used to determine costs and liabilities under the plan only if the change is approved by the Secretary of the Treasury. If the plan year for a plan is

1 changed, the new plan year shall become the
 2 plan year for the plan only if the change is ap-
 3 proved by the Secretary of the Treasury.

4 “(C) APPROVAL REQUIRED FOR CERTAIN
 5 CHANGES IN ASSUMPTIONS BY CERTAIN SIN-
 6 GLE-EMPLOYER PLANS SUBJECT TO ADDI-
 7 TIONAL FUNDING REQUIREMENT.—

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

15 “(ii) PLANS TO WHICH SUBPARA-
 16 GRAPH APPLIES.—This subparagraph shall
 17 apply to a plan only if—

18 “(I) the plan is a CSEC plan,

19 “(II) the aggregate unfunded
 20 vested benefits as of the close of the
 21 preceding plan year (as determined
 22 under section 4006(a)(3)(E)(iii)) of
 23 such plan and all other plans main-
 24 tained by the contributing sponsors
 25 (as defined in section 4001(a)(13))

1 and members of such sponsors' con-
 2 trolled groups (as defined in section
 3 4001(a)(14)) which are covered by
 4 title IV (disregarding plans with no
 5 unfunded vested benefits) exceed
 6 \$50,000,000, and

7 “(III) the change in assumptions
 8 (determined after taking into account
 9 any changes in interest rate and mor-
 10 tality table) results in a decrease in
 11 the funding shortfall of the plan for
 12 the current plan year that exceeds
 13 \$50,000,000, or that exceeds
 14 \$5,000,000 and that is 5 percent or
 15 more of the current liability of the
 16 plan before such change.

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

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

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

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

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

15 “(B) the lesser of—

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

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

20 “(C) MINIMUM AMOUNT.—

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

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

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

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

14 “(8) ANNUAL VALUATION.—

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

23 “(B) VALUATION DATE.—

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

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

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

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

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

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

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

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

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

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

8 “(10) ANTICIPATION OF BENEFIT INCREASES
9 EFFECTIVE IN THE FUTURE.—In determining pro-
10 jected benefits, the funding method of a collectively
11 bargained CSEC plan described in section 413(a) of
12 the Internal Revenue Code of 1986 shall anticipate
13 benefit increases scheduled to take effect during the
14 term of the collective bargaining agreement applica-
15 ble to the plan.

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

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

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

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

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

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

17 “(A) charged with the sum of—

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

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

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

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

9 “(3) INTEREST.—The alternative minimum
 10 funding standard account (and items therein) shall
 11 be charged or credited with interest in the manner
 12 provided under subsection (b)(5) with respect to the
 13 funding standard account.

14 “(f) QUARTERLY CONTRIBUTIONS REQUIRED.—

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

24 “(A) 175 percent of the Federal mid-term
 25 rate (as in effect under section 1274 of the In-

ternal Revenue Code of 1986 for the 1st month
of such plan year), or

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

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

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

“(i) the required installment, over

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

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

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

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

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

6 “(B) TIME FOR PAYMENT OF INSTALL-
7 MENTS.—

**“In the case of the following
required installments:**

The due date is:

1st	April 15
2nd	July 15
3rd	October 15
4th	January 15 of the following year.

8 “(4) AMOUNT OF REQUIRED INSTALLMENT.—
9 For purposes of this subsection—

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

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

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

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

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

5 “(5) LIQUIDITY REQUIREMENT.—

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

15 “(B) PLANS TO WHICH PARAGRAPH AP-
16 PLIES.—This paragraph shall apply to a CSEC
17 plan other than a plan described in section
18 302(d)(6)(A) (as in effect on the day before the
19 enactment of the Pension Protection Act of
20 2006) which—

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

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

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

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

17 “(E) DEFINITIONS.—For purposes of this
 18 paragraph—

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

1 spect to such quarter over the value (as of
2 such last day) of the plan's liquid assets.

3 “(ii) BASE AMOUNT.—

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

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

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

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

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

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

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

24 “(vi) QUARTER.—The term ‘quarter’
25 means, with respect to any required install-

1 ment, the 3-month period preceding the
 2 month in which the due date for such in-
 3 stallment occurs.

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

7 “(6) FISCAL YEARS AND SHORT YEARS.—

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

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

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

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

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

“(B) the unpaid balance of such installment or other payment (including interest), when added to the aggregate unpaid balance of all preceding such installments or other payments for which payment was not made before the due date (including interest), exceeds \$1,000,000,

then there shall be a lien in favor of the plan in the amount determined under paragraph (3) upon all property and rights to property, whether real or personal, belonging to such person and any other person who is a member of the same controlled group of which such person is a member.

“(2) PLANS TO WHICH SUBSECTION APPLIES.—

This subsection shall apply to a CSEC plan for any plan year for which the funded current liability percentage of such plan is less than 100 percent. This subsection shall not apply to any plan to which section 4021 does not apply (as such section is in effect on the date of the enactment of the Retirement Protection Act of 1994).

“(3) AMOUNT OF LIEN.—For purposes of paragraph (1), the amount of the lien shall be equal to the aggregate unpaid balance of required install-

ments and other payments required under this section (including interest)—

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

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

“(4) NOTICE OF FAILURE; LIEN.—

“(A) NOTICE OF FAILURE.—A person committing a failure described in paragraph (1) shall notify the Pension Benefit Guaranty Corporation of such failure within 10 days of the due date for the required installment or other payment.

“(B) PERIOD OF LIEN.—The lien imposed by paragraph (1) shall arise on the due date for the required installment or other payment and shall continue until the last day of the first plan year in which the plan ceases to be described in paragraph (1)(B). Such lien shall continue to run without regard to whether such plan continues to be described in paragraph (2) during the period referred to in the preceding sentence.

“(C) CERTAIN RULES TO APPLY.—Any amount with respect to which a lien is imposed under paragraph (1) shall be treated as taxes

1 due and owing the United States and rules
 2 similar to the rules of subsections (c), (d), and
 3 (e) of section 4068 shall apply with respect to
 4 a lien imposed by subsection (a) and the
 5 amount with respect to such lien.

6 “(5) ENFORCEMENT.—Any lien created under
 7 paragraph (1) may be perfected and enforced only
 8 by the Pension Benefit Guaranty Corporation, or at
 9 the direction of the Pension Benefit Guaranty Cor-
 10 poration, by any contributing employer (or any
 11 member of the controlled group of the contributing
 12 employer).

13 “(6) DEFINITIONS.—For purposes of this sub-
 14 section—

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

22 “(B) CONTROLLED GROUP.—The term
 23 ‘controlled group’ means any group treated as
 24 a single employer under subsections (b), (c),

1 (m), and (o) of section 414 of the Internal Rev-
 2 enue Code of 1986.

3 “(h) CURRENT LIABILITY.—For purposes of this sec-
 4 tion—

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

8 “(2) TREATMENT OF UNPREDICTABLE CONTIN-
 9 GENT EVENT BENEFITS.—

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

14 “(B) UNPREDICTABLE CONTINGENT
 15 EVENT BENEFIT.—The term ‘unpredictable
 16 contingent event benefit’ means any benefit
 17 contingent on an event other than—

18 “(i) age, service, compensation, death,
 19 or disability, or

20 “(ii) an event which is reasonably and
 21 reliably predictable (as determined by the
 22 Secretary of the Treasury).

23 “(3) INTEREST RATE AND MORTALITY ASSUMP-
 24 TIONS USED.—

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

5 “(B) MORTALITY TABLES.—

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

17 “(ii) PERIODIC REVIEW.—The Sec-
18 retary of the Treasury shall periodically (at
19 least every 5 years) review any tables in ef-
20 fect under this subsection and shall, to the
21 extent the Secretary of the Treasury deter-
22 mines necessary, by regulation update the
23 tables to reflect the actual experience of
24 pension plans and projected trends in such
25 experience.

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

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

“(ii) SPECIAL RULE FOR DISABILITIES
OCCURRING AFTER 1994.—In the case of
disabilities occurring in plan years begin-
ning after December 31, 1994, the tables
under clause (i) shall apply only with re-
spect to individuals described in such sub-
clause who are disabled within the meaning

1 of title II of the Social Security Act and
2 the regulations thereunder.

3 “(4) CERTAIN SERVICE DISREGARDED.—

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

10 “(B) APPLICABLE PERCENTAGE.—For
11 purposes of this subparagraph, the applicable
12 percentage shall be determined as follows:

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

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

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

1 “(ii) who first becomes a participant
2 under the plan in a plan year beginning
3 after December 31, 1987, and

4 “(iii) has years of service greater than
5 the minimum years of service necessary for
6 eligibility to participate in the plan.

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

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

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

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

18 “(j) FUNDING RESTORATION STATUS.—Notwith-
19 standing any other provisions of this section—

20 “(1) NORMAL COST PAYMENT.—

21 “(A) IN GENERAL.—In the case of a
22 CSEC plan that is in funding restoration status
23 for a plan year, for purposes of section 302, the
24 term ‘accumulated funding deficiency’ means,
25 for such plan year, the greater of—

1 “(i) the amount described in sub-
2 section (a), or

3 “(ii) the excess of the normal cost of
4 the plan for the plan year over the amount
5 actually contributed to or under the plan
6 for the plan year.

7 “(B) NORMAL COST.—In the case of a
8 CSEC plan that uses a spread gain funding
9 method, for purposes of this subsection, the
10 term ‘normal cost’ means normal cost as deter-
11 mined under the entry age normal funding
12 method.

13 “(2) PLAN AMENDMENTS.—In the case of a
14 CSEC plan that is in funding restoration status for
15 a plan year, no amendment to such plan may take
16 effect during such plan year if such amendment has
17 the effect of increasing liabilities of the plan by
18 means of increases in benefits, establishment of new
19 benefits, changing the rate of benefit accrual, or
20 changing the rate at which benefits become non-
21 forfeitable. This paragraph shall not apply to any
22 plan amendment that is required to comply with any
23 applicable law. This paragraph shall cease to apply
24 with respect to any plan year, effective as of the
25 first day of the plan year (or if later, the effective

1 date of the amendment) upon payment by the plan
2 sponsor of a contribution to the plan (in addition to
3 any contribution required under this section without
4 regard to this paragraph) in an amount equal to the
5 increase in the funding liability of the plan attrib-
6 utable to the plan amendment.

7 “(3) FUNDING RESTORATION PLAN.—The spon-
8 sor of a CSEC plan shall establish a written funding
9 restoration plan within 180 days of the receipt by
10 the plan sponsor of a certification from the plan ac-
11 tuary that the plan is in funding restoration status
12 for a plan year. Such funding restoration plan shall
13 consist of actions that are calculated, based on rea-
14 sonably anticipated experience and reasonable actu-
15 arial assumptions, to increase the plan’s funded per-
16 centage to 100 percent over a period that is not
17 longer than the greater of 7 years or the shortest
18 amount of time practicable. Such funding restora-
19 tion plan shall take into account contributions re-
20 quired under this section (without regard to this
21 paragraph). If a plan remains in funding restoration
22 status for 2 or more years, such funding restoration
23 plan shall be updated each year after the 1st such
24 year within 180 days of receipt by the plan sponsor
25 of a certification from the plan actuary that the plan

1 remains in funding restoration status for the plan
2 year.

3 “(4) ANNUAL CERTIFICATION BY PLAN ACTU-
4 ARY.—Not later than the 90th day of each plan year
5 of a CSEC plan, the plan actuary shall certify to the
6 plan sponsor whether or not the plan is in funding
7 restoration status for the plan year, based on the
8 plan’s funded percentage as of the beginning of the
9 plan year. For this purpose, the actuary may conclu-
10 sively rely on an estimate of—

11 “(A) the plan’s funding liability, based on
12 the funding liability of the plan for the pre-
13 ceding plan year and on reasonable actuarial es-
14 timates, assumptions, and methods, and

15 “(B) the amount of any contributions rea-
16 sonably anticipated to be made for the pre-
17 ceding plan year.

18 Contributions described in subparagraph (B) shall
19 be taken into account in determining the plan’s
20 funded percentage as of the beginning of the plan
21 year.

22 “(5) DEFINITIONS.—For purposes of this sub-
23 section—

24 “(A) FUNDING RESTORATION STATUS.—A
25 CSEC plan shall be treated as in funding res-

toration status for a plan year if the plan's funded percentage as of the beginning of such plan year is less than 80 percent.

“(B) FUNDED PERCENTAGE.—The term ‘funded percentage’ means the ratio (expressed as a percentage) which—

“(i) the value of plan assets (as determined under subsection (c)(2)), bears to

“(ii) the plan's funding liability.

“(C) FUNDING LIABILITY.—The term ‘funding liability’ for a plan year means the present value of all benefits accrued or earned under the plan as of the beginning of the plan year, based on the assumptions used by the plan pursuant to this section, including the interest rate described in subsection (b)(5)(A) (without regard to subsection (b)(5)(B)).

“(D) SPREAD GAIN FUNDING METHOD.—The term ‘spread gain funding method’ has the meaning given such term under rules and forms issued by the Secretary of the Treasury.”.

(b) SEPARATE RULES FOR CSEC PLANS.—

(1) IN GENERAL.—Paragraph (2) of section 302(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(a)) is amended by

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

5 “(D) in the case of a CSEC plan, the em-
6 ployers make contributions to or under the plan
7 for any plan year which, in the aggregate, are
8 sufficient to ensure that the plan does not have
9 an accumulated funding deficiency under sec-
10 tion 306 as of the end of the plan year.”.

11 (2) CONFORMING AMENDMENTS.—Section 302
12 of the Employee Retirement Income Security Act of
13 1974 (29 U.S.C. 1082) is amended—

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

19 (B) by striking “303(j)” in paragraph (1)
20 of subsection (b) and inserting “303(j) or under
21 section 306(f)”,

22 (C)(i) by striking “and” at the end of
23 clause (i) of subsection (c)(1)(B),

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

(iii) by inserting the following new clause after clause (ii) of subsection (c)(1)(B):

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

(D) by striking “under paragraph (1)” in clause (i) of subsection (c)(4)(A) and inserting “under paragraph (1) or for granting an extension under section 306(d)”,

(E) by striking “waiver under this subsection” in subparagraph (B) of subsection (c)(4) and inserting “waiver under this subsection or an extension under 306(d)”,

(F) by striking “waiver or modification” in subclause (I) of subsection (c)(4)(B)(i) and inserting “waiver, modification, or extension”,

(G) by striking “waivers” in the heading of subsection (c)(4)(C) and of clause (ii) of sub-

1 section (c)(4)(C) and inserting “waivers or ex-
2 tensions”,

3 (H) by striking “section 304(d)” in sub-
4 paragraph (A) of subsection (c)(7) and in para-
5 graph (2) of subsection (d) and inserting “sec-
6 tion 304(d) or section 306(d)”,

7 (I) by striking “and” at the end of sub-
8 clause (I) of subsection (c)(4)(C)(i) and adding
9 “or the accumulated funding deficiency under
10 section 306, whichever is applicable”,

11 (J) by striking “303(e)(2),” in subclause
12 (II) of subsection (c)(4)(C)(i) and inserting
13 “303(e)(2) or 306(b)(2)(C), whichever is appli-
14 cable, and”,

15 (K) by adding immediately after subclause
16 (II) of subsection (c)(4)(C)(i) the following new
17 subclause:

18 “(III) the total amounts not paid
19 by reason of an extension in effect
20 under section 306(d),”,

21 (L) by striking “for waivers of” in clause
22 (ii) of subsection (c)(4)(C) and inserting “for
23 waivers or extensions with respect to”, and

24 (M) by striking “single-employer plan” in
25 subparagraph (A) of subsection (a)(2) and in

1 clause (i) of subsection (c)(1)(B) and inserting
 2 “single-employer plan (other than a CSEC
 3 plan)”.

4 (3) BENEFIT RESTRICTIONS.—Subsection (g) of
 5 section 206 of the Employee Retirement Income Se-
 6 curity Act of 1974 (29 U.S.C. 1056) is amended by
 7 adding at the end thereof the following new para-
 8 graph:

9 “(12) CSEC PLANS.—This subsection shall not
 10 apply to a CSEC plan (as defined in section
 11 210(f)).”.

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

17 (5) SECTION 103.—Subparagraph (B) of section
 18 103(d)(8) of the Employee Retirement Income Secu-
 19 rity Act of 1974 (29 U.S.C. 1023(d)(8)) is amended
 20 by striking “303(h) and 304(c)(3)” and inserting
 21 “303(h), 304(c)(3), and 306(c)(3)”.

22 (6) SECTION 502.—Subsection (c) of section
 23 502 of the Employee Retirement Income Security
 24 Act of 1974 is amended—

1 (A) by redesignating the last paragraph as
2 paragraph (11), and

3 (B) by adding at the end the following new
4 paragraph:

5 “(12) The Secretary may assess a civil penalty
6 against any sponsor of a CSEC plan of up to \$100
7 a day from the date of the plan sponsor’s failure to
8 comply with the requirements of section 306(j)(3) to
9 establish or update a funding restoration plan.”.

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

19 (8) SECTION 4010.—Paragraph (2) of section
20 4010(b) of the Employee Retirement Income Secu-
21 rity Act of 1974 (29 U.S.C. 1310(b)) is amended by
22 striking “303(k)(1)(A) and (B) of this Act or sec-
23 tion 430(k)(1)(A) and (B) of the Internal Revenue
24 Code of 1986” and inserting “303(k)(1)(A) and (B)
25 or 306(g)(1)(A) and (B) of this Act or section

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

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

8 **SEC. 103. ELECTIONS.**

9 (a) ELECTION NOT TO BE TREATED AS A CSEC
10 PLAN.—Subsection (f) of section 210 of the Employee Re-
11 tirement Income Security Act of 1974, as added by section
12 101, is amended by adding at the end the following new
13 paragraph:

14 “(3) ELECTION.—

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

1 “(B) SPECIAL RULE.—If a plan described
 2 in subparagraph (A) is treated as a CSEC plan,
 3 section 104 of the Pension Protection Act of
 4 2006, as amended by the Preservation of Ac-
 5 cess to Care for Medicare Beneficiaries and
 6 Pension Relief Act of 2010, shall cease to apply
 7 to such plan as of the first date as of which
 8 such plan is treated as a CSEC plan.”.

9 (b) ELECTION TO CEASE TO BE TREATED AS AN
 10 ELIGIBLE CHARITY PLAN.—Subsection (d) of section 104
 11 of the Pension Protection Act of 2006, as added by section
 12 202 of the Preservation of Access to Care for Medicare
 13 Beneficiaries and Pension Relief Act of 2010, is amend-
 14 ed—

15 (1) by striking “For purposes of” and inserting
 16 “(1) IN GENERAL.—For purposes of”, and
 17 (2) by adding at the end the following:

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

1 only with the consent of the Secretary of the Treas-
 2 ury.

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

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

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

18 “(i) an 11-year shortfall amortization
 19 base,

20 “(ii) a 12-year shortfall amortization
 21 base, and

22 “(iii) a 7-year shortfall amortization
 23 base.

24 “(C) Under the rules described in this sub-
 25 paragraph, section 303(c)(2)(A) and (B) of the

1 Employee Retirement Income Security Act of
2 1974, and section 430(c)(2)(A) and (B) of the
3 Internal Revenue Code of 1986 shall be applied
4 by—

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

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

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

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

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

“(E) For purposes of this paragraph, the 11-year 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 303(c)(3) of the Employee Retirement Income Security Act of 1974 and section 430(c)(3) of the Internal Revenue Code of 1986) that would have applied to the plan for the first plan 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 303(c)(2)(D)(i) of the Employee Retirement Income Security Act of 1974 and in section 430(c)(2)(D)(i) of the Internal Revenue Code of 1986 to have section

1 303(c)(2)(D)(i) of such Act and section
2 430(c)(2)(D)(iii) of such Code apply with
3 respect to the shortfall amortization base
4 for the first plan year beginning after De-
5 cember 31, 2009, and

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

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

1 plan for the first plan beginning after Decem-
2 ber 31, 2010, if—

3 “(i) the plan had never been an eligi-
4 ble charity plan,

5 “(ii) the plan sponsor had made the
6 election described in section
7 303(c)(2)(D)(i) of the Employee Retire-
8 ment Income Security Act of 1974 and in
9 section 430(c)(2)(D)(i) of the Internal
10 Revenue Code of 1986 to have section
11 303(c)(2)(D)(i) of such Act and section
12 430(c)(2)(D)(iii) of such Code apply with
13 respect to the shortfall amortization base
14 for the first plan year beginning after De-
15 cember 31, 2010, and

16 “(iii) no event had occurred under
17 paragraph (6) or (7) of section 303(c) of
18 such Act or paragraph (6) or (7) of section
19 430(c) of such Code that, as of the first
20 day of the first plan year beginning after
21 December 31, 2013, would have modified
22 the shortfall amortization base or the
23 shortfall amortization installments with re-
24 spect to the first plan year beginning after
25 December 31, 2010.

1 “(G) For purposes of this paragraph, the
 2 7-year shortfall amortization base is an amount,
 3 determined for the first plan year beginning
 4 after December 31, 2013, equal to—

5 “(i) the shortfall amortization base for
 6 the first plan year beginning after Decem-
 7 ber 31, 2013, without regard to this para-
 8 graph, minus

9 “(ii) the sum of the 11-year shortfall
 10 amortization base and the 12-year shortfall
 11 amortization base.

12 “(4) RETROACTIVE ELECTION.—Not later than
 13 December 31, 2014, a plan sponsor may make a
 14 one-time, irrevocable, retroactive election to not be
 15 treated as an eligible charity plan. Such election
 16 shall be effective for plan years beginning after De-
 17 cember 31, 2007, and shall be made by providing
 18 reasonable notice to the Secretary of the Treasury.”.

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

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

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

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

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

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

18 **SEC. 104. TRANSPARENCY.**

19 (a) NOTICE TO PARTICIPANTS.—

20 (1) IN GENERAL.—Paragraph (2) of section
21 101(f) of the Employee Retirement Income Security
22 Act of 1974 (29 U.S.C. 1021(f)) is amended by add-
23 ing at the end the following new subparagraph:

“(E) EFFECT OF CSEC PLAN RULES ON
PLAN FUNDING.—In the case of a CSEC plan,
each notice under paragraph (1) shall include—

“(i) a statement that different rules
apply to CSEC plans than apply to single-
employer plans,

“(ii) for the first 2 plan years begin-
ning after December 31, 2013, a statement
that, as a result of changes in the law
made by the Cooperative and Small Em-
ployer Charity Pension Flexibility Act, the
contributions to the plan may have
changed, and

“(iii) in the case of a CSEC plan that
is in funding restoration status for the
plan year, a statement that the plan is in
funding restoration status for such plan
year.

A copy of the statement required under clause
(iii) shall be provided to the Secretary, the Sec-
retary of the Treasury, and the Director of the
Pension Benefit Guaranty Corporation.”.

(2) MODEL NOTICE.—The Secretary of Labor
may modify the model notice required to be pub-
lished under section 501(c) of the Pension Protec-

1 tion Act of 2006 to include the information de-
 2 scribed in section 101(f)(2)(E) of the Employee Re-
 3 tirement Income Security Act of 1974, as added by
 4 this subsection.

5 (b) NOTICE OF FAILURE TO MEET MINIMUM FUND-
 6 ING STANDARDS.—

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

11 (2) DEFINITIONS.—Paragraph (3) of section
 12 101(d) of the Employee Retirement Income Security
 13 Act of 1974 (21 U.S.C. 1021(d)) is amended by
 14 striking “303(j)” and inserting “303(j) or 306(f),
 15 whichever is applicable”.

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

20 “(g) ADDITIONAL INFORMATION WITH RESPECT TO
 21 MULTIPLE EMPLOYER PLANS.—With respect to any mul-
 22 tiple employer plan, an annual report under this section
 23 for a plan year shall include a list of participating employ-
 24 ers and a good faith estimate of the percentage of total

1 contributions made by such participating employers dur-
 2 ing the plan year.”.

3 **SEC. 105. SPONSOR EDUCATION AND ASSISTANCE.**

4 (a) DEFINITION.—In this section, the term “CSEC
 5 plan” has the meaning given that term in subsection (f)(1)
 6 of section 210 of the Employee Retirement Income Secu-
 7 rity Act of 1974 (29 U.S.C. 1060(f)(1)) (as added by this
 8 Act).

9 (b) EDUCATION.—The Participant and Plan Sponsor
 10 Advocate established under section 4004 of the Employee
 11 Retirement Income Security Act of 1974 (29 U.S.C. 1304)
 12 shall make itself available to assist CSEC plan sponsors
 13 and participants as part of the duties it performs under
 14 the general supervision of the Board of Directors under
 15 section 4004(b) of such Act (29 U.S.C. 1304(b)).

16 **TITLE II—AMENDMENTS TO IN-**
 17 **TERNAL REVENUE CODE OF**
 18 **1986**

19 **SEC. 201. DEFINITION OF COOPERATIVE AND SMALL EM-**
 20 **PLOYER CHARITY PENSION PLANS.**

21 Section 414 of the Internal Revenue Code of 1986
 22 is amended by adding at the end the following new sub-
 23 section:

24 “(y) COOPERATIVE AND SMALL EMPLOYER CHARITY
 25 PENSION PLANS.—

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

5 “(A) to which section 104 of the Pension
 6 Protection Act of 2006 applies, without regard
 7 to—

8 “(i) section 104(a)(2) of such Act;

9 “(ii) the amendments to such section
 10 104 by section 202(b) of the Preservation
 11 of Access to Care for Medicare Bene-
 12 ficiaries and Pension Relief Act of 2010;
 13 and

14 “(iii) paragraph (3)(B); or

15 “(B) that, as of June 25, 2010, was main-
 16 tained by more than one employer and all of the
 17 employers were organizations described in sec-
 18 tion 501(c)(3).

19 “(2) AGGREGATION.—All employers that are
 20 treated as a single employer under subsection (b) or
 21 (c) shall be treated as a single employer for purposes
 22 of determining if a plan was maintained by more
 23 than one employer under paragraph (1)(B).”.

1 **SEC. 202. FUNDING RULES APPLICABLE TO COOPERATIVE**
 2 **AND SMALL EMPLOYER CHARITY PENSION**
 3 **PLANS.**

4 (a) IN GENERAL.—Subpart A of part III of sub-
 5 chapter D of chapter 1 of subtitle A of the Internal Rev-
 6 enue Code of 1986 is amended by adding at the end the
 7 following new section:

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

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

18 “(b) FUNDING STANDARD ACCOUNT.—

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

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

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

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

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

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

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

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

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

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

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

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

18 “(E) the amount necessary to amortize in
19 equal annual installments (until fully amor-
20 tized) over a period of 20 years the contribu-
21 tions which would be required to be made under
22 the plan but for the provisions of section
23 412(c)(7)(A)(i)(I) (as in effect on the day be-
24 fore the enactment of the Pension Protection
25 Act of 2006).

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

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

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

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

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

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

1 “(C) the amount of the waived funding de-
2 ficiency (within the meaning of section
3 412(c)(3)) for the plan year, and

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

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

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

“(B) may be offset against amounts required to be amortized under the other such paragraph, with the resulting amount to be amortized over a period determined on the basis of the remaining amortization periods for all items entering into whichever of the two amounts being offset is the greater.

“(5) INTEREST.—

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

“(B) EXCEPTION.—The interest rate used for purposes of computing the amortization charge described in subsection (b)(2)(C) or for purposes of any arrangement under subsection (d) for any plan year shall be the greater of—

“(i) 150 percent of the Federal midterm rate (as in effect under section 1274 for the 1st month of such plan year), or

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

3 “(6) AMORTIZATION SCHEDULES IN EFFECT.—
4 Amortization schedules for amounts described in
5 paragraphs (2) and (3) that are in effect as of the
6 last day of the last plan year beginning before Janu-
7 ary 1, 2014, by reason of section 104 of the Pension
8 Protection Act of 2006 shall remain in effect pursu-
9 ant to their terms and this section, except that such
10 amounts shall not be amortized again under this sec-
11 tion.

12 “(c) SPECIAL RULES.—

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

19 “(2) VALUATION OF ASSETS.—

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

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

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

13 “(A) each of which is reasonable (taking
 14 into account the experience of the plan and rea-
 15 sonable expectations), and

16 “(B) which, in combination, offer the actu-
 17 ary’s best estimate of anticipated experience
 18 under the plan.

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

22 “(A) a change in benefits under the Social
 23 Security Act or in other retirement benefits cre-
 24 ated under Federal or State law, or

1 “(B) a change in the definition of the term
2 ‘wages’ under section 3121 or a change in the
3 amount of such wages taken into account under
4 regulations prescribed for purposes of section
5 401(a)(5),
6 results in an increase or decrease in accrued liability
7 under a plan, such increase or decrease shall be
8 treated as an experience loss or gain.

9 “(5) FUNDING METHOD AND PLAN YEAR.—

10 “(A) FUNDING METHODS AVAILABLE.—All
11 funding methods available to CSEC plans under
12 section 412 (as in effect on the day before the
13 enactment of the Pension Protection Act of
14 2006) shall continue to be available under this
15 section.

16 “(B) CHANGES.—If the funding method
17 for a plan is changed, the new funding method
18 shall become the funding method used to deter-
19 mine costs and liabilities under the plan only if
20 the change is approved by the Secretary. If the
21 plan year for a plan is changed, the new plan
22 year shall become the plan year for the plan
23 only if the change is approved by the Secretary.

24 “(C) APPROVAL REQUIRED FOR CERTAIN
25 CHANGES IN ASSUMPTIONS BY CERTAIN SIN-

1 GLE-EMPLOYER PLANS SUBJECT TO ADDI-
2 TIONAL FUNDING REQUIREMENT.—

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

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

13 “(I) the plan is a CSEC plan,

14 “(II) the aggregate unfunded
15 vested benefits as of the close of the
16 preceding plan year (as determined
17 under section 4006(a)(3)(E)(iii) of the
18 Employee Retirement Income Security
19 Act of 1974) of such plan and all
20 other plans maintained by the contrib-
21 uting sponsors (as defined in section
22 4001(a)(13) of such Act) and mem-
23 bers of such sponsors’ controlled
24 groups (as defined in section
25 4001(a)(14) of such Act) which are

1 covered by title IV (disregarding plans
 2 with no unfunded vested benefits) ex-
 3 ceed \$50,000,000, and

4 “(III) the change in assumptions
 5 (determined after taking into account
 6 any changes in interest rate and mor-
 7 tality table) results in a decrease in
 8 the funding shortfall of the plan for
 9 the current plan year that exceeds
 10 \$50,000,000, or that exceeds
 11 \$5,000,000 and that is 5 percent or
 12 more of the current liability of the
 13 plan before such change.

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

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

22 “(B) all amounts described in paragraphs
 23 (2)(B), (C), and (D) and (3)(B) of subsection
 24 (b) which are required to be amortized shall be

1 considered fully amortized for purposes of such
2 paragraphs.

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

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

12 “(B) the lesser of—

13 “(i) the fair market value of the
14 plan’s assets, or

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

17 “(C) MINIMUM AMOUNT.—

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

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

1 crease in such current liability due to
 2 benefits accruing during the plan
 3 year), over

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

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

10 “(8) ANNUAL VALUATION.—

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

19 “(B) VALUATION DATE.—

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

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

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

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

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

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

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

4 “(10) ANTICIPATION OF BENEFIT INCREASES
5 EFFECTIVE IN THE FUTURE.—In determining pro-
6 jected benefits, the funding method of a collectively
7 bargained CSEC 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.

11 “(d) EXTENSION OF AMORTIZATION PERIODS.—The
12 period of years required to amortize any unfunded liability
13 (described in any clause of subsection (b)(2)(B)) of any
14 plan may be extended by the Secretary for a period of
15 time (not in excess of 10 years) if the Secretary deter-
16 mines that such extension would carry out the purposes
17 of the Employee Retirement Income Security Act of 1974
18 and provide adequate protection for participants under the
19 plan and their beneficiaries, and if the Secretary deter-
20 mines that the failure to permit such extension would re-
21 sult in—

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

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

1 “(e) ALTERNATIVE MINIMUM FUNDING STAND-
2 ARD.—

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

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

13 “(A) charged with the sum of—

14 “(i) the lesser of normal cost under
15 the funding method used under the plan or
16 normal cost determined under the unit
17 credit method,

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

22 “(iii) an amount equal to the excess
23 (if any) of credits to the alternative min-
24 imum standard account for all prior plan

1 years over charges to such account for all
2 such years, and

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

6 “(3) INTEREST.—The alternative minimum
7 funding standard account (and items therein) shall
8 be charged or credited with interest in the manner
9 provided under subsection (b)(5) with respect to the
10 funding standard account.

11 “(f) QUARTERLY CONTRIBUTIONS REQUIRED.—

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

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

24 “(B) the rate of interest used under the
25 plan in determining costs.

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

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

5 “(i) the required installment, over

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

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

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

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

1 “(A) PAYABLE IN 4 INSTALLMENTS.—

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

4 “(B) TIME FOR PAYMENT OF INSTALL-

5 MENTS.—

**“In the case of the following
required installments:**

The due date is:

1st	April 15
2nd	July 15
3rd	October 15
4th	January 15 of the following year.

6 “(4) AMOUNT OF REQUIRED INSTALLMENT.—

7 For purposes of this subsection—

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

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

14 “(i) 90 percent of the amount re-
15 quired to be contributed to or under the
16 plan by the employer for the plan year
17 under section 412 (without regard to any
18 waiver under subsection (c) thereof), or

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

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

3 “(5) LIQUIDITY REQUIREMENT.—

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

13 “(B) PLANS TO WHICH PARAGRAPH AP-
14 PLIES.—This paragraph shall apply to a CSEC
15 plan other than a plan described in section
16 412(l)(6)(A) (as in effect on the day before the
17 enactment of the Pension Protection Act of
18 2006) which—

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

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

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

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

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

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

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

24 “(ii) BASE AMOUNT.—

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

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

22 “(iii) DISBURSEMENTS FROM THE
23 PLAN.—The term ‘disbursements from the
24 plan’ means all disbursements from the
25 trust, including purchases of annuities,

1 payments of single sums and other bene-
 2 fits, and administrative expenses.

3 “(iv) ADJUSTED DISBURSEMENTS.—
 4 The term ‘adjusted disbursements’ means
 5 disbursements from the plan reduced by
 6 the product of—

7 “(I) the plan’s funded current li-
 8 ability percentage for the plan year,
 9 and

10 “(II) the sum of the purchases of
 11 annuities, payments of single sums,
 12 and such other disbursements as the
 13 Secretary shall provide in regulations.

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

18 “(vi) QUARTER.—The term ‘quarter’
 19 means, with respect to any required install-
 20 ment, the 3-month period preceding the
 21 month in which the due date for such in-
 22 stallment occurs.

23 “(F) REGULATIONS.—The Secretary may
 24 prescribe such regulations as are necessary to
 25 carry out this paragraph.

1 “(6) FISCAL YEARS AND SHORT YEARS.—

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

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

11 “(g) IMPOSITION OF LIEN WHERE FAILURE TO
12 MAKE REQUIRED CONTRIBUTIONS.—

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

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

20 “(B) the unpaid balance of such install-
21 ment or other payment (including interest),
22 when added to the aggregate unpaid balance of
23 all preceding such installments or other pay-
24 ments for which payment was not made before

1 the due date (including interest), exceeds
2 \$1,000,000,
3 then there shall be a lien in favor of the plan in the
4 amount determined under paragraph (3) upon all
5 property and rights to property, whether real or per-
6 sonal, belonging to such person and any other per-
7 son who is a member of the same controlled group
8 of which such person is a member.

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

10 This subsection shall apply to a CSEC plan for any
11 plan year for which the funded current liability per-
12 centage of such plan is less than 100 percent. This
13 subsection shall not apply to any plan to which sec-
14 tion 4021 of the Employee Retirement Income Secu-
15 rity Act of 1974 does not apply (as such section is
16 in effect on the date of the enactment of the Retire-
17 ment Protection Act of 1994).

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

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

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

3 “(4) NOTICE OF FAILURE; LIEN.—

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

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

19 “(C) CERTAIN RULES TO APPLY.—Any
20 amount with respect to which a lien is imposed
21 under paragraph (1) shall be treated as taxes
22 due and owing the United States and rules
23 similar to the rules of subsections (c), (d), and
24 (e) of section 4068 of the Employee Retirement
25 Income Security Act of 1974 shall apply with

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 “(B) MORTALITY TABLES.—

“(i) SECRETARIAL AUTHORITY.—The Secretary may by regulation prescribe mortality tables to be used in determining current liability under this subsection. Such tables shall be based upon the actual experience of pension plans and projected trends in such experience. In prescribing such tables, the Secretary shall take into account results of available independent studies of mortality of individuals covered by pension plans.

“(ii) PERIODIC REVIEW.—The Secretary shall periodically (at least every 5 years) review any tables in effect under this subsection and shall, to the extent the Secretary determines necessary, by regulation update the tables to reflect the actual experience of pension plans and projected trends in such experience.

“(C) SEPARATE MORTALITY TABLES FOR THE DISABLED.—Notwithstanding subparagraph (B)—

“(i) IN GENERAL.—In the case of plan years beginning after December 31, 1995, the Secretary shall establish mor-

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

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

21 “(4) CERTAIN SERVICE DISREGARDED.—

22 “(A) IN GENERAL.—In the case of a par-
 23 ticipant to whom this paragraph applies, only
 24 the applicable percentage of the years of service
 25 before such individual became a participant

1 shall be taken into account in computing the
2 current liability of the plan.

3 “(B) APPLICABLE PERCENTAGE.—For
4 purposes of this subparagraph, the applicable
5 percentage shall be determined as follows:

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

6 “(C) PARTICIPANTS TO WHOM PARAGRAPH
7 APPLIES.—This subparagraph shall apply to
8 any participant who, at the time of becoming a
9 participant—

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

15 “(ii) who first becomes a participant
16 under the plan in a plan year beginning
17 after December 31, 1987, and

18 “(iii) has years of service greater than
19 the minimum years of service necessary for
20 eligibility to participate in the plan.

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

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

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

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

12 “(j) FUNDING RESTORATION STATUS.—Notwith-
 13 standing any other provisions of this section—

14 “(1) NORMAL COST PAYMENT.—

15 “(A) IN GENERAL.—In the case of a
 16 CSEC plan that is in funding restoration status
 17 for a plan year, for purposes of section 412, the
 18 term ‘accumulated funding deficiency’ means,
 19 for such plan year, the greater of—

20 “(i) the amount described in sub-
 21 section (a), or

22 “(ii) the excess of the normal cost of
 23 the plan for the plan year over the amount
 24 actually contributed to or under the plan
 25 for the plan year.

1 “(B) NORMAL COST.—In the case of a
2 CSEC plan that uses a spread gain funding
3 method, for purposes of this subsection, the
4 term ‘normal cost’ means normal cost as deter-
5 mined under the entry age normal funding
6 method.

7 “(2) PLAN AMENDMENTS.—In the case of a
8 CSEC plan that is in funding restoration status for
9 a plan year, no amendment to such plan may take
10 effect during such plan year if such amendment has
11 the effect of increasing liabilities of the plan by
12 means of increases in benefits, establishment of new
13 benefits, changing the rate of benefit accrual, or
14 changing the rate at which benefits become non-
15 forfeitable. This paragraph shall not apply to any
16 plan amendment that is required to comply with any
17 applicable law. This paragraph shall cease to apply
18 with respect to any plan year, effective as of the
19 first day of the plan year (or if later, the effective
20 date of the amendment) upon payment by the plan
21 sponsor of a contribution to the plan (in addition to
22 any contribution required under this section without
23 regard to this paragraph) in an amount equal to the
24 increase in the funding liability of the plan attrib-
25 utable to the plan amendment.

1 “(3) FUNDING RESTORATION PLAN.—The spon-
2 sor of a CSEC plan shall establish a written funding
3 restoration plan within 180 days of the receipt by
4 the plan sponsor of a certification from the plan ac-
5 tuary that the plan is in funding restoration status
6 for a plan year. Such funding restoration plan shall
7 consist of actions that are calculated, based on rea-
8 sonably anticipated experience and reasonable actu-
9 arial assumptions, to increase the plan’s funded per-
10 centage to 100 percent over a period that is not
11 longer than the greater of 7 years or the shortest
12 amount of time practicable. Such funding restora-
13 tion plan shall take into account contributions re-
14 quired under this section (without regard to this
15 paragraph). If a plan remains in funding restoration
16 status for 2 or more years, such funding restoration
17 plan shall be updated each year after the 1st such
18 year within 180 days of receipt by the plan sponsor
19 of a certification from the plan actuary that the plan
20 remains in funding restoration status for the plan
21 year.

22 “(4) ANNUAL CERTIFICATION BY PLAN ACTU-
23 ARY.—Not later than the 90th day of each plan year
24 of a CSEC plan, the plan actuary shall certify to the
25 plan sponsor whether or not the plan is in funding

1 restoration status for the plan year, based on the
 2 plan's funded percentage as of the beginning of the
 3 plan year. For this purpose, the actuary may conclu-
 4 sively rely on an estimate of—

5 “(A) the plan's funding liability, based on
 6 the funding liability of the plan for the pre-
 7 ceding plan year and on reasonable actuarial es-
 8 timates, assumptions, and methods, and

9 “(B) the amount of any contributions rea-
 10 sonably anticipated to be made for the pre-
 11 ceding plan year.

12 Contributions described in subparagraph (B) shall
 13 be taken into account in determining the plan's
 14 funded percentage as of the beginning of the plan
 15 year.

16 “(5) DEFINITIONS.—For purposes of this sub-
 17 section—

18 “(A) FUNDING RESTORATION STATUS.—A
 19 CSEC plan shall be treated as in funding res-
 20 toration status for a plan year if the plan's
 21 funded percentage as of the beginning of such
 22 plan year is less than 80 percent.

23 “(B) FUNDED PERCENTAGE.—The term
 24 ‘funded percentage’ means the ratio (expressed
 25 as a percentage) which—

1 “(i) the value of plan assets (as deter-
 2 mined under subsection (c)(2)), bears to

3 “(ii) the plan’s funding liability.

4 “(C) FUNDING LIABILITY.—The term
 5 ‘funding liability’ for a plan year means the
 6 present value of all benefits accrued or earned
 7 under the plan as of the beginning of the plan
 8 year, based on the assumptions used by the
 9 plan pursuant to this section, including the in-
 10 terest rate described in subsection (b)(5)(A)
 11 (without regard to subsection (b)(5)(B)).

12 “(D) SPREAD GAIN FUNDING METHOD.—
 13 The term ‘spread gain funding method’ has the
 14 meaning given such term under rules and forms
 15 issued by the Secretary.

16 “(E) PLAN SPONSOR.—The term ‘plan
 17 sponsor’ means, with respect to a CSEC plan,
 18 the association, committee, joint board of trust-
 19 ees, or other similar group of representatives of
 20 the parties who establish or maintain the
 21 plan.”.

22 (b) CSEC PLANS.—Section 413 of the Internal Rev-
 23 enue Code of 1986 is amended by adding at the end the
 24 following new subsection:

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

3 “(1) FUNDING.—The requirements of section
4 412 shall be determined as if all participants in the
5 plan were employed by a single employer.

6 “(2) APPLICATION OF PROVISIONS.—Para-
7 graphs (1), (2), (3), and (5) of subsection (c) shall
8 apply.

9 “(3) DEDUCTION LIMITATIONS.—Each applica-
10 ble limitation provided by section 404(a) shall be de-
11 termined as if all participants in the plan were em-
12 ployed by a single employer. The amounts contrib-
13 uted to or under the plan by each employer who
14 maintains the plan (for the portion of the taxable
15 year included within a plan year) shall be considered
16 not to exceed such applicable limitation if the antici-
17 pated employer contributions for such plan year of
18 all employers (determined in a reasonable manner
19 not inconsistent with regulations prescribed by the
20 Secretary) do not exceed such limitation. If such an-
21 ticipated contributions exceed such limitation, the
22 portion of each such employer’s contributions which
23 is not deductible under section 404 shall be deter-
24 mined in accordance with regulations prescribed by
25 the Secretary.

1 “(4) ALLOCATIONS.—Allocations of amounts
2 under paragraph (3) and subsection (c)(5) among
3 the employers maintaining the plan shall not be in-
4 consistent with the regulations prescribed for this
5 purpose by the Secretary.”.

6 (c) SEPARATE RULES FOR CSEC PLANS.—

7 (1) IN GENERAL.—Paragraph (2) of section
8 412(a) of the Internal Revenue Code of 1986 is
9 amended by striking “and” at the end of subpara-
10 graph (B), by striking the period at the end of sub-
11 paragraph (C) and inserting “, and”, and by insert-
12 ing at the end thereof the following new subpara-
13 graph:

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

20 (2) CONFORMING AMENDMENTS.—Section 412
21 of such Code is amended—

22 (A) by striking “multiemployer plan” in
23 paragraph (A) of subsection (a)(2), in clause (i)
24 of subsection (c)(1)(B), the first place it ap-
25 pears in clause (i) of subsection (c)(1)(A), and

1 the last place it appears in paragraph (2) of
 2 subsection (d), and inserting “multiemployer
 3 plan or a CSEC plan”,

4 (B) by striking “430(j)” in paragraph (1)
 5 of subsection (b) and inserting “430(j) or under
 6 section 433(f)”,

7 (C)(i) by striking “and” at the end of
 8 clause (i) of subsection (c)(1)(B),

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

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

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

20 (D) by striking “under paragraph (1)” in
 21 clause (i) of subsection (c)(4)(A) and inserting
 22 “under paragraph (1) or for granting an exten-
 23 sion under section 433(d)”,

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

1 (c)(4) and inserting “waiver under this sub-
 2 section or an extension under 433(d)”,

3 (F) by striking “waiver or modification” in
 4 subclause (I) of subsection (c)(4)(B)(i) and in-
 5 serting “waiver, modification, or extension”,

6 (G) by striking “waivers” in the heading of
 7 subsection (c)(4)(C) and of clause (ii) of sub-
 8 section (c)(4)(C) and inserting “waivers or ex-
 9 tensions”,

10 (H) by striking “section 431(d)” in sub-
 11 paragraph (A) of subsection (c)(7) and in para-
 12 graph (2) of subsection (d) and inserting “sec-
 13 tion 431(d) or section 433(d)”,

14 (I) by striking “and” at the end of sub-
 15 clause (I) of subsection (c)(4)(C)(i) and insert-
 16 ing “or the accumulated funding deficiency
 17 under section 433, whichever is applicable,”,

18 (J) by striking “430(e)(2),” in subclause
 19 (II) of subsection (c)(4)(C)(i) and inserting
 20 “430(e)(2) or 433(b)(2)(C), whichever is appli-
 21 cable, and”,

22 (K) by adding immediately after subclause
 23 (II) of subsection (c)(4)(C)(i) the following new
 24 subclause:

1 “(III) the total amounts not paid
2 by reason of an extension in effect
3 under section 433(d),” and

4 (L) by striking “for waivers of” in clause
5 (ii) of subsection (c)(4)(C) and inserting “for
6 waivers or extensions with respect to”.

7 (3) BENEFIT RESTRICTIONS.—

8 (A) IN GENERAL.—Paragraph (29) of sec-
9 tion 401(a) of such Code is amended by strik-
10 ing “multiemployer plan” and inserting “multi-
11 employer plan or a CSEC plan”.

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

17 (4) BENEFIT INCREASES.—Subparagraph (C)
18 of section 401(a)(33) of such Code is amended by
19 striking “multiemployer plans” and inserting “multi-
20 employer plans or CSEC plans”.

21 (5) LIQUIDITY SHORTFALLS.—

22 (A) IN GENERAL.—Subparagraph (A) of
23 section 401(a)(32) of such Code is amended by
24 striking “430(j)(4)” each place it appears and
25 inserting “430(j)(4) or 433(f)(5)”.

1 (B) PERIOD OF SHORTFALL.—Subpara-
 2 graph (C) of section 401(a)(32) of such Code is
 3 amended by striking “430(j)(3) by reason of
 4 section 430(j)(4)(A) thereof” and inserting
 5 “430(j)(3) or 433(f) by reason of section
 6 430(j)(4)(A) or 433(f)(5), respectively”.

7 (6) DEDUCTION LIMITS.—Subsection (o) of sec-
 8 tion 404 of such Code is amended by adding at the
 9 end the following new paragraph:

10 “(8) CSEC PLANS.—Solely for purposes of this
 11 subsection, a CSEC plan shall be treated as though
 12 section 430 applied to such plan and the minimum
 13 required contribution for any plan year shall be the
 14 amount described in section 412(a)(2)(D).”.

15 (7) SECTION 420.—Paragraph (5) of section
 16 420(e) of such Code is amended by striking “section
 17 430” each place it appears and inserting “sections
 18 430 and 433”.

19 (8) COORDINATION WITH SECTION 4971.—

20 (A) Subsection (a) of section 4971 of such
 21 Code is amended by striking “and” at the end
 22 of paragraph (1), by striking the period at the
 23 end of paragraph (2) and inserting “, and”,
 24 and by adding at the end thereof the following
 25 new paragraph:

1 “(3) in the case of a CSEC plan, 10 percent of
 2 the CSEC accumulated funding deficiency as of the
 3 end of the plan year ending with or within the tax-
 4 able year.”.

5 (B) Subsection (b) of section 4971 of such
 6 Code is amended—

7 (i) by striking “or” at the end of
 8 paragraph (1), by adding “or” at the end
 9 of paragraph (2), and by inserting imme-
 10 diately after paragraph (2) the following
 11 new paragraph:

12 “(3) a tax is imposed under subsection (a)(3)
 13 on any CSEC accumulated funding deficiency and
 14 the CSEC accumulated funding deficiency is not cor-
 15 rected within the taxable period,” and

16 (ii) by striking “minimum required
 17 contributions or accumulated funding defi-
 18 ciency” and inserting “minimum required
 19 contribution, accumulated funding defi-
 20 ciency, or CSEC accumulated funding defi-
 21 ciency”.

22 (C) Subsection (c) of section 4971 of such
 23 Code is amended—

24 (i) by striking “accumulated funding
 25 deficiency” each place it appears in para-

graph (2) and inserting “accumulated funding deficiency or CSEC accumulated funding deficiency”,

(ii) by striking “accumulated funding deficiency or unpaid minimum required contribution” each place it appears in paragraph (3) and inserting “accumulated funding deficiency, CSEC accumulated funding deficiency, or unpaid minimum required contribution”, and

(iii) by adding at the end the following new paragraph:

“(5) CSEC ACCUMULATED FUNDING DEFICIENCY.—The term ‘CSEC accumulated funding deficiency’ means the accumulated funding deficiency determined under section 433.”.

(D) Paragraph (1) of section 4971(d) of such Code is amended by striking “accumulated funding deficiency or unpaid minimum required contribution” and inserting “accumulated funding deficiency, CSEC accumulated funding deficiency, or unpaid minimum required contribution”.

(E) Subsection (f) of section 4971 of such Code is amended—

(i) by striking “430(j)(4)” in paragraph (1) and inserting “430(j)(4) or 433(f)”,

(ii) by striking “430(j)” in paragraph (1)(B) and inserting “430(j) or 433(f), whichever is applicable”, and

(iii) by striking “412(m)(5)” in paragraph (3)(A) and inserting “430(j) or 433(f), whichever is applicable”.

(9) EXCISE TAX ON FAILURE TO ADOPT FUNDING RESTORATION PLAN.—Section 4971 of such Code is amended by redesignating subsection (h) as subsection (i), and by inserting after subsection (g) the following new subsection:

“(h) FAILURE OF A CSEC PLAN SPONSOR TO ADOPT FUNDING RESTORATION PLAN.—

“(1) IN GENERAL.—In the case of a CSEC plan that is in funding restoration status (within the meaning of section 433(j)(5)(A)), there is hereby imposed a tax on the failure of such plan to adopt a funding restoration plan within the time prescribed under section 433(j)(3).

“(2) AMOUNT OF TAX.—The amount of the tax imposed under paragraph (1) with respect to any plan sponsor for any taxable year shall be the

1 amount equal to \$100 multiplied by the number of
 2 days during the taxable year which are included in
 3 the period beginning on the day following the close
 4 of the 180-day period described in section 433(j)(3)
 5 and ending on the day on which the funding restora-
 6 tion plan is adopted.

7 “(3) WAIVER BY SECRETARY.—In the case of a
 8 failure described in paragraph (1) which the Sec-
 9 retary determines is due to reasonable cause and not
 10 to willful neglect, the Secretary may waive a portion
 11 or all of the tax imposed by such paragraph.

12 “(4) LIABILITY FOR TAX.—The tax imposed by
 13 paragraph (1) shall be paid by the plan sponsor
 14 (within the meaning of section 433(j)(5)(E)).”.

15 (10) REPORTING.—

16 (A) IN GENERAL.—Paragraph (2) of sec-
 17 tion 6059(b) of such Code is amended by strik-
 18 ing “430,” and inserting “430, the accumulated
 19 funding deficiency under section 433,”.

20 (B) ASSUMPTIONS.—Subparagraph (B) of
 21 section 6059(b)(3) of such Code is amended by
 22 striking “430(h)(1) or 431(c)(3)” and inserting
 23 “430(h)(1), 431(c)(3), or 433(c)(3)”.

1 **SEC. 203. ELECTION NOT TO BE TREATED AS A CSEC PLAN.**

2 (a) IN GENERAL.—Section 414(y) of the Internal
3 Revenue Code of 1986, as added by section 201, is amend-
4 ed by adding at the end the following new paragraph:

5 “(3) ELECTION.—

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

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

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

Passed the Senate January 28, 2014.

Attest:

Secretary.

113TH CONGRESS
2D SESSION

S. 1302

AN ACT

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide for cooperative and small employer charity pension plans.