

Union Calendar No. 391

103D CONGRESS
2D SESSION

H. R. 3396

[Report No. 103-632, Parts I and II]

A BILL

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

AUGUST 26, 1994

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

OCTOBER 28, 1993

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

JULY 19, 1994

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

JULY 29, 1994

Reported from the Committee on Ways and Means with an amendment

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

AUGUST 26, 1994

Reported from the Committee on Education and Labor with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in bold face roman]

[For text of introduced bill, see copy of bill as introduced on October 28, 1993]

A BILL

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide security for workers, to improve pension plan

funding, to limit growth in insurance exposure, to protect the single-employer plan termination insurance program, and for other purposes.

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

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

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“Retirement Protection Act of 1994”.*

6 (b) *TABLE OF CONTENTS.*—

Sec. 1. Short title and table of contents.

TITLE I—PENSION PLAN FUNDING

SUBTITLE A—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

- Sec. 101. Minimum funding requirements.*
- Sec. 102. Limitation on changes in current liability assumptions.*
- Sec. 103. Anticipation of bargained benefit increases.*
- Sec. 104. Modification of quarterly contribution requirement.*
- Sec. 105. Exceptions to excise tax on nondeductible contributions.*

*SUBTITLE B—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME
 SECURITY ACT OF 1974*

- Sec. 121. Minimum funding requirements.*
- Sec. 122. Limitation on changes in current liability assumptions.*
- Sec. 123. Anticipation of bargained benefit increases.*
- Sec. 124. Modification of quarterly contribution requirement.*

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

- Sec. 201. Reportable events.*
- Sec. 202. Alternative to involuntary termination.*
- Sec. 203. Certain information required to be furnished to PBGC.*
- Sec. 204. Liability upon liquidation of contributing sponsor or controlled group member where plan remains ongoing.*
- Sec. 205. Enforcement of minimum funding requirements.*
- Sec. 206. Remedies for noncompliance with requirements for standard termination.*
- Sec. 207. Prohibition on benefit increases where plan sponsor is in bankruptcy.*
- Sec. 208. Substantial owner benefits.*
- Sec. 209. Phase-out of variable rate premium cap.*

TITLE III—PARTICIPANT SERVICES

- Sec. 301. Disclosure to participants.
 Sec. 302. Missing participants.
 Sec. 303. Modification of maximum guarantee for disability benefits.

TITLE IV—MISCELLANEOUS AMENDMENTS

- Sec. 401. ERISA citation.
 Sec. 402. Definition of contributing sponsor.
 Sec. 403. Distress termination criteria for banking institutions.
 Sec. 404. Single sum distributions.
 Sec. 405. Adjustments to lien for missed minimum funding contributions.
 Sec. 406. Rounding rules for cost-of-living adjustments.
 Sec. 407. Funding of restored plans.
 Sec. 408. Study of funding status of Federal, State, and local government pension plans.

TITLE V—EFFECTIVE DATES

- Sec. 501. Effective dates.

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

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

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

8 (1) LIMITATION OF ADDITIONAL FUNDING RE-
 9 QUIREMENT TO PLANS HAVING A FUNDED CURRENT
 10 LIABILITY PERCENTAGE OF LESS THAN 90 PERCENT.—
 11 Paragraph (1) of section 412(l) of the Internal Reve-
 12 nue Code of 1986 (relating to additional funding re-
 13 quirements for plans which are not multiemployer
 14 plans) is amended by striking “which has an un-
 15 funded current liability” and inserting “which has a

1 *funded current liability percentage of less than 90*
2 *percent”.*

3 (2) *RELATIONSHIP OF ADDITIONAL FUNDING RE-*
4 *QUIREMENT TO FUNDING STANDARD ACCOUNT*
5 *CHARGES AND CREDITS.—*

6 (A) *Clause (ii) of section 412(l)(1)(A) of*
7 *such Code is amended to read as follows:*

8 *“(ii) the sum of the charges for such*
9 *plan year under subsection (b)(2), reduced*
10 *by the sum of the credits for such plan year*
11 *under subparagraph (B) of subsection*
12 *(b)(3), plus”.*

13 (B) *The last sentence in section 412(l)(1) of*
14 *such Code is amended to read as follows:*

15 *“Such increase shall not exceed the amount which,*
16 *after taking into account charges (other than the ad-*
17 *ditional charge under this subsection) and credits*
18 *under subsection (b), is necessary to increase the*
19 *funded current liability percentage (taking into ac-*
20 *count the expected increase in current liability due to*
21 *benefits accruing during the plan year) to 100 per-*
22 *cent.”*

23 (3) *AMENDMENT TO DEFICIT REDUCTION CON-*
24 *TRIBUTION.—Paragraph (2) of section 412(l) of such*
25 *Code is amended—*

1 (A) by striking “plus” at the end of sub-
2 paragraph (A),

3 (B) by striking the period at the end of sub-
4 paragraph (B) and inserting “; plus”; and

5 (C) by adding at the end the following new
6 subparagraph:

7 “(C) the expected increase in current liabil-
8 ity due to benefits accruing during the plan
9 year.”

10 (4) INCREASE IN CURRENT LIABILITY DUE TO
11 CHANGE IN REQUIRED ASSUMPTIONS.—

12 (A) Paragraph (3) of section 412(l) of such
13 Code is amended by adding at the end the follow-
14 ing new subparagraph:

15 “(D) SPECIAL RULE FOR REQUIRED
16 CHANGES IN ACTUARIAL ASSUMPTIONS.—

17 “(i) IN GENERAL.—The unfunded old
18 liability amount with respect to any plan
19 for any plan year shall be increased by the
20 amount necessary to amortize the amount of
21 additional unfunded old liability under the
22 plan in equal annual installments over a
23 period of 12 plan years (beginning with the
24 first plan year beginning after December
25 31, 1994).

1 “(ii) *ADDITIONAL UNFUNDED OLD LI-*
2 *ABILITY.—For purposes of clause (i), the*
3 *term ‘additional unfunded old liability’*
4 *means the amount (if any) by which—*

5 “(I) *the current liability of the*
6 *plan as of the beginning of the first*
7 *plan year beginning after December*
8 *31, 1994, valued using the assumptions*
9 *required by paragraph (7)(C) as in ef-*
10 *fect for plan years beginning after De-*
11 *cember 31, 1994, exceeds*

12 “(II) *the current liability of the*
13 *plan as of the beginning of such first*
14 *plan year, valued using the same as-*
15 *sumptions used under subclause (I)*
16 *(other than the assumptions required*
17 *by paragraph (7)(C)), using the prior*
18 *interest rate, and using such mortality*
19 *assumptions as were used to determine*
20 *current liability for the first plan year*
21 *beginning after December 31, 1992.*

22 “(iii) *PRIOR INTEREST RATE.—For*
23 *purposes of clause (ii), the term ‘prior in-*
24 *terest rate’ means the rate of interest that is*
25 *the same percentage of the weighted average*

1 under subsection (b)(5)(B)(ii)(I) for the
2 first plan year beginning after December
3 31, 1994, as the rate of interest used by the
4 plan to determine current liability for the
5 first plan year beginning after December
6 31, 1992, is of the weighted average under
7 subsection (b)(5)(B)(ii)(I) for such first
8 plan year beginning after December 31,
9 1992.”

10 (5) *APPLICABLE PERCENTAGE FOR DETERMINING*
11 *UNFUNDED NEW LIABILITY AMOUNT.*—Subparagraph
12 (C) of section 412(l)(4) of such Code is amended—

13 (A) by striking “.25” and inserting “.40”,

14 and

15 (B) by striking “.35” and inserting “.60”.

16 (6) *UNPREDICTABLE CONTINGENT EVENT*
17 *AMOUNT.*—

18 (A) Subparagraph (A) of section 412(l)(5)
19 of such Code is amended—

20 (i) by striking “greater of” and insert-
21 ing “greatest of” before clause (i);

22 (ii) by striking “or” at the end of
23 clause (i);

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

1 (iv) by adding after clause (ii) the fol-
2 lowing new clause:

3 “(iii) the additional amount that
4 would be determined under paragraph
5 (4)(A) if the unpredictable contingent event
6 benefit liabilities were included in unfunded
7 new liability notwithstanding paragraph
8 (4)(B)(ii).”

9 (B) Paragraph (5) of section 412(l) of such
10 Code is amended by adding at the end the follow-
11 ing new subparagraph:

12 “(E) LIMITATION.—The present value of the
13 amounts described in subparagraph (A) with re-
14 spect to any one event shall not exceed the unpre-
15 dictable contingent event benefit liabilities at-
16 tributable to that event.”

17 (C) Clause (ii) of section 412(m)(4)(D) of
18 such Code is amended—

19 (i) by striking “greater of” and insert-
20 ing “greatest of” before subclause (I);

21 (ii) by striking “or” at the end of
22 subclause (I);

23 (iii) by striking the period at the end
24 of subclause (II) and inserting “, or”; and

1 (iv) by adding after subclause (II) the
2 following new clause:

3 “(III) 25 percent of the amount
4 determined under subsection
5 (l)(5)(A)(iii) for the plan year.”

6 (7) *REQUIRED INTEREST RATE AND MORTALITY*
7 *ASSUMPTIONS FOR DETERMINING CURRENT LIABIL-*
8 *ITY.—Subparagraph (C) of section 412(l)(7) of such*
9 *Code is amended to read as follows:*

10 “(C) *INTEREST RATE AND MORTALITY AS-*
11 *SUMPTIONS USED.—Effective for plan years be-*
12 *ginning after December 31, 1994—*

13 “(i) the rate of interest used to deter-
14 mine current liability under this subsection
15 shall be the rate of interest used under sub-
16 section (b)(5), except that the highest rate in
17 the permissible range under subparagraph
18 (B)(ii) thereof shall not exceed 100 percent
19 of the weighted average referred to in such
20 subparagraph, and

21 “(ii) the mortality table used to deter-
22 mine current liability under this subsection
23 shall be the table prescribed by the Sec-
24 retary.

1 *The table prescribed under clause (ii) shall be*
2 *based on the prevailing commissioners' standard*
3 *table (described in section 807(d)(5)(A)) used to*
4 *determine reserves for group annuity contracts*
5 *issued on the date as of which current liability*
6 *is determined (without regard to any other sub-*
7 *paragraph of section 807(d)(5))."*

8 (8) *TRANSITION RULE.—Section 412(l) of such*
9 *Code is amended by adding at the end the following*
10 *new paragraph:*

11 “(9) *PHASE IN OF INCREASES IN FUNDING RE-*
12 *QUIRED BY RETIREMENT PROTECTION ACT OF 1994.—*

13 “(A) *IN GENERAL.—For any applicable*
14 *plan year, at the election of the employer, the in-*
15 *crease under paragraph (1) shall not exceed the*
16 *greater of—*

17 “(i) *the increase that would be required*
18 *under paragraph (1) if the provisions of*
19 *this title as in effect for plan years begin-*
20 *ning before January 1, 1995, had remained*
21 *in effect, or*

22 “(ii) *the amount which, after taking*
23 *into account charges (other than the addi-*
24 *tional charge under this subsection) and*
25 *credits under subsection (b), is necessary to*

1 *increase the funded current liability per-*
 2 *centage (taking into account the expected*
 3 *increase in current liability due to benefits*
 4 *accruing during the plan year) for the ap-*
 5 *plicable plan year to a percentage equal to*
 6 *the sum of the initial funded current liabil-*
 7 *ity percentage of the plan plus the applica-*
 8 *ble number of percentage points for such ap-*
 9 *plicable plan year.*

10 “(B) *APPLICABLE NUMBER OF PERCENTAGE*
 11 *POINTS.—*

12 “(i) *INITIAL FUNDED CURRENT LIABIL-*
 13 *ITY PERCENTAGE OF 75 PERCENT OR*
 14 *LESS.—Except as provided in clause (ii),*
 15 *for plans with an initial funded current li-*
 16 *ability percentage of 75 percent or less, the*
 17 *applicable number of percentage points for*
 18 *the applicable plan year is:*

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

19 “(ii) *OTHER CASES.—In the case of a*
 20 *plan to which this clause applies, the appli-*

1 cable number of percentage points for any
2 such applicable plan year is the sum of—

3 “(I) 2 percentage points;

4 “(II) the applicable number of
5 percentage points (if any) under this
6 clause for the preceding applicable
7 plan year;

8 “(III) the product of .10 multi-
9 plied by the excess (if any) of (a) 85
10 percentage points over (b) the sum of
11 the initial funded current liability per-
12 centage and the number determined
13 under subclause (II);

14 “(IV) for applicable plan years
15 beginning in 2000, 1 percentage point;
16 and

17 “(V) for applicable plan years be-
18 ginning in 2001, 2 percentage points.

19 “(iii) PLANS TO WHICH CLAUSE (ii)
20 APPLIES.—

21 “(I) IN GENERAL.—Clause (ii)
22 shall apply to a plan for an applicable
23 plan year if the initial funded current
24 liability percentage of such plan is
25 more than 75 percent.

1 “(II) *PLANS INITIALLY UNDER*
2 *CLAUSE (i).*—*In the case of a plan*
3 *which (but for this subclause) has an*
4 *initial funded current liability per-*
5 *centage of 75 percent or less, clause (ii)*
6 *(and not clause (i)) shall apply to such*
7 *plan with respect to applicable plan*
8 *years beginning after the first applica-*
9 *ble plan year for which the sum of the*
10 *initial funded current liability per-*
11 *centage and the applicable number of*
12 *percentage points (determined under*
13 *clause (i)) exceeds 75 percent. For pur-*
14 *poses of applying clause (ii) to such a*
15 *plan, the initial funded current liabil-*
16 *ity percentage of such plan shall be*
17 *treated as being the sum referred to in*
18 *the preceding sentence.*

19 “(C) *DEFINITIONS.*—*For purposes of this*
20 *paragraph—*

21 “(i) *The term ‘applicable plan year’*
22 *means a plan year beginning after Decem-*
23 *ber 31, 1994, and before January 1, 2002.*

24 “(ii) *The term ‘initial funded current*
25 *liability percentage’ means the funded cur-*

1 *rent liability percentage as of the first day*
2 *of the first plan year beginning after De-*
3 *cember 31, 1994.”*

4 (9) *LIQUIDITY REQUIREMENT.—*

5 (A) *Section 412(m) of such Code is amend-*
6 *ed by redesignating paragraph (5) as paragraph*
7 *(6) and by inserting after paragraph (4) the fol-*
8 *lowing new paragraph:*

9 “(5) *LIQUIDITY REQUIREMENT.—*

10 “(A) *IN GENERAL.—A plan to which this*
11 *paragraph applies shall be treated as failing to*
12 *pay the full amount of any required installment*
13 *to the extent that the value of the liquid assets*
14 *paid in such installment is less than the liquid-*
15 *ity shortfall (whether or not such liquidity short-*
16 *fall exceeds the amount of such installment re-*
17 *quired to be paid but for this paragraph).*

18 “(B) *PLANS TO WHICH PARAGRAPH AP-*
19 *PLIES.—This paragraph shall apply to a defined*
20 *benefit plan to which subsection (1) applies and*
21 *which—*

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

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

1 “(C) *PERIOD OF UNDERPAYMENT.*—For
2 purposes of paragraph (1), any portion of an in-
3 stallment that is treated as not paid under sub-
4 paragraph (A) shall continue to be treated as
5 unpaid until the close of the quarter in which the
6 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 shall
10 such increase exceed the amount which, when
11 added to prior installments for the plan year, is
12 necessary to increase the funded current liability
13 percentage (taking into account the expected in-
14 crease in current liability due to benefits accru-
15 ing during the plan year) to 100 percent.

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

18 “(i) *LIQUIDITY SHORTFALL.*—The term
19 ‘liquidity shortfall’ means, with respect to
20 any required installment, an amount equal
21 to the excess (as of the last day of the quar-
22 ter for which such installment is made) of
23 the base amount with respect to such quar-
24 ter over the value (as of such last day) of
25 the plan’s liquid assets.

1 “(ii) *BASE AMOUNT.*—

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

8 “(II) *SPECIAL RULE.*—If the
9 amount determined under clause (i)
10 exceeds an amount equal to 2 times the
11 sum of the adjusted disbursements from
12 the plan for the 36 months ending on
13 the last day of the quarter and an en-
14 rolled actuary certifies to the Secretary
15 that such excess is the result of non-
16 recurring circumstances, the base
17 amount with respect to such quarter
18 shall be determined without regard to
19 amounts related to those nonrecurring
20 circumstances.

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

1 *payments of single sums and other benefits,*
2 *and administrative expenses.*

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

7 “(I) *the plan’s funded current li-*
8 *ability percentage (as defined in sub-*
9 *section (l)(8)) for the plan year, 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 the*
17 *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 (B) *EXCISE TAX ON UNPAID LIQUIDITY*
2 *SHORTFALL.—*

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

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

11 “(f) *FAILURE TO PAY LIQUIDITY SHORTFALL.—*

12 “(1) *IN GENERAL.—In the case of a plan to*
13 *which section 412(m)(5) applies, there is hereby im-*
14 *posed a tax of 10 percent of the excess (if any) of—*

15 “(A) *the amount of the liquidity shortfall*
16 *for any quarter, over*

17 “(B) *the amount of such shortfall which is*
18 *paid by the required installment under section*
19 *412(m) for such quarter (but only if such install-*
20 *ment is paid on or before the due date for such*
21 *installment).*

22 “(2) *ADDITIONAL TAX.—If the plan has a liquid-*
23 *ity shortfall as of the close of any quarter and as of*
24 *the close of each of the following 4 quarters, there is*
25 *hereby imposed a tax equal to 100 percent of the*

1 *amount on which tax was imposed by paragraph (1)*
2 *for such first quarter.*

3 “(3) *DEFINITIONS AND SPECIAL RULE.—*

4 “(A) *LIQUIDITY SHORTFALL; QUARTER.—*
5 *For purposes of this subsection, the terms ‘liquid-*
6 *ity shortfall’ and ‘quarter’ have the respective*
7 *meanings given such terms by section 412(m)(5).*

8 “(B) *SPECIAL RULE.—If the tax imposed by*
9 *paragraph (2) is paid with respect to any li-*
10 *quidity shortfall for any quarter, no further tax*
11 *shall be imposed by this subsection on such short-*
12 *fall for such quarter.”*

13 “(C) *TREATMENT OF FAILURE TO MAKE CER-*
14 *TAIN PAYMENTS IF PLAN HAS LIQUIDITY SHORT-*
15 *FALL.—Section 401(a) of such Code is amended*
16 *by adding at the end the following new para-*
17 *graph:*

18 “(32) *TREATMENT OF FAILURE TO MAKE CER-*
19 *TAIN PAYMENTS IF PLAN HAS LIQUIDITY SHORT-*
20 *FALL.—*

21 “(A) *IN GENERAL.—A trust forming part of*
22 *a pension plan to which section 412(m)(5) ap-*
23 *plies shall not be treated as failing to constitute*
24 *a qualified trust under this section merely be-*
25 *cause such plan ceases to make any payment de-*

1 *scribed in subparagraph (B) during any period*
2 *that such plan has a liquidity shortfall (as de-*
3 *defined in section 412(m)(5)).*

4 “(B) *PAYMENTS DESCRIBED.*—A payment
5 *is described in this subparagraph if such pay-*
6 *ment is—*

7 “(i) *any payment, in excess of the*
8 *monthly amount paid under a single life*
9 *annuity (plus any social security supple-*
10 *ments described in the last sentence of sec-*
11 *tion 411(a)(9)), to a participant or bene-*
12 *ficiary whose annuity starting date (as de-*
13 *defined in section 417(f)(2)) occurs during the*
14 *period referred to in subparagraph (A),*

15 “(ii) *any payment for the purchase of*
16 *an irrevocable commitment from an insurer*
17 *to pay benefits, and*

18 “(iii) *any other payment specified by*
19 *the Secretary by regulations.*

20 “(C) *PERIOD OF SHORTFALL.*—For pur-
21 *poses of this paragraph, a plan has a liquidity*
22 *shortfall during the period that there is an*
23 *underpayment of an installment under section*
24 *412(m) by reason of paragraph (5)(A) thereof.”*

1 (10) AMENDMENT TO DEFINITION OF FULL
2 FUNDING LIMITATION.—

3 (A) Subparagraph (A) of section 412(c)(7)
4 of such Code is amended—

5 (i) by inserting “(including the ex-
6 pected increase in current liability due to
7 benefits accruing during the plan year)”
8 after “current liability” in clause (i), and

9 (ii) by adding at the end the following
10 flush sentences:

11 *“In no event shall the excess described in the pre-
12 ceding sentence for any plan year be less than
13 the unfunded current liability (if any) of the
14 plan. For purposes of the preceding sentence, the
15 term ‘unfunded current liability’ has the mean-
16 ing given such term by subsection (l)(8) (deter-
17 mined without regard to subsection (l)(7)(D)).”*

18 (B) Subparagraph (B) of section 412(c)(7)
19 of such Code is amended to read as follows:

20 *“(B) CURRENT LIABILITY.—For purposes of
21 subparagraph (D) and subclause (I) of subpara-
22 graph (A)(i), the term ‘current liability’ has the
23 meaning given such term by subsection (l)(7)
24 (without regard to subparagraphs (C) and (D))”*

1 thereof) and using the rate of interest used under
2 subsection (b)(5)(B).”

3 (b) *EFFECTIVE DATE.*—The amendments made by this
4 section shall apply to plan years beginning after December
5 31, 1994.

6 **SEC. 102. LIMITATION ON CHANGES IN CURRENT LIABILITY**

7 **ASSUMPTIONS.**

8 (a) *IN GENERAL.*—Paragraph (5) of section 412(c) of
9 the Internal Revenue Code of 1986 is amended—

10 (1) by striking “If the funding method” and in-
11 serting the following:

12 “(A) *IN GENERAL.*—If the funding method”,

13 and

14 (2) by adding at the end the following new sub-
15 paragraph:

16 “(B) *APPROVAL REQUIRED FOR CERTAIN*

17 *CHANGES IN ASSUMPTIONS BY CERTAIN SINGLE*

18 *EMPLOYER PLANS SUBJECT TO ADDITIONAL*

19 *FUNDING REQUIREMENT.*—

20 “(i) *IN GENERAL.*—No actuarial as-

21 sumption (other than the assumptions de-

22 scribed in subsection (l)(7)(C)) used to de-

23 termine the current liability for a plan to

24 which this subparagraph applies may be

1 *changed without the approval of the Sec-*
2 *retary.*

3 “(ii) *PLANS TO WHICH SUBPARAGRAPH*
4 *APPLIES.—This subparagraph shall apply*
5 *to a plan only if—*

6 “(I) *subsection (l) applies to the*
7 *plan;*

8 “(II) *the employer (within the*
9 *meaning of section 412(c)(11) (without*
10 *regard to subparagraph (B) thereof)*
11 *maintaining such plan is described in*
12 *section 4043(b)(1) of the Employee Re-*
13 *tirement Income Security Act of 1974;*
14 *and*

15 “(III) *the change in assumptions*
16 *(determined after taking into account*
17 *any changes in interest rate and mor-*
18 *tality table) results in a decrease in the*
19 *unfunded current liability of the plan*
20 *for the current plan year that is*
21 *\$50,000,000 or greater, or that is*
22 *\$5,000,000 or greater and that is 5*
23 *percent or more of the current liability*
24 *of the plan before such change.”*

25 (b) *EFFECTIVE DATE.—*

1 (1) *IN GENERAL.*—The amendment made by this
2 section shall apply to changes in assumptions for
3 plan years beginning after October 28, 1993.

4 (2) *CERTAIN CHANGES CEASE TO BE EFFEC-*
5 *TIVE.*—In the case of changes in assumptions for plan
6 years beginning after December 31, 1992, and on or
7 before October 28, 1993, such changes shall cease to be
8 effective for plan years beginning after December 31,
9 1994, if—

10 (A) such change would have required the
11 approval of the Secretary of the Treasury had
12 such amendment applied to such change, and

13 (B) such change is not so approved.

14 **SEC. 103. ANTICIPATION OF BARGAINED BENEFIT IN-**
15 **CREASES.**

16 (a) *IN GENERAL.*—Section 412(c) of the Internal Reve-
17 nue Code of 1986 is amended by adding at the end the fol-
18 lowing new paragraph:

19 “(12) *ANTICIPATION OF BENEFIT INCREASES EF-*
20 *FECTIVE IN THE FUTURE.*—In determining projected
21 benefits, the funding method of a collectively bar-
22 gained plan described in section 413(a) (other than a
23 multiemployer plan) shall anticipate benefit increases
24 scheduled to take effect during the term of the collec-
25 tive bargaining agreement applicable to the plan.”

1 “(A) contributions that would be deductible
2 under section 404(a)(1)(D) if the plan had more
3 than 100 participants if—

4 “(i) the plan is covered under section
5 4021 of the Employee Retirement Income
6 Security Act of 1974, and

7 “(ii) the plan is terminated under sec-
8 tion 4041(b) of such Act on or before the
9 last day of the taxable year, and

10 “(B) contributions described in section
11 401(m)(4)(A) or 402(g)(3)(A) which—

12 “(i) do not exceed 6 percent of com-
13 pensation (within the meaning of section
14 404(a)(7)(A)(i)) paid or accrued (during
15 the taxable year for which the contributions
16 were made) to beneficiaries under the plan,
17 and

18 “(ii) are not deductible when contrib-
19 uted solely because of section 404(a)(7).

20 Subparagraph (B) shall apply to a defined bene-
21 fit plan only if such plan is described in section
22 404(a)(1)(D). For purposes of subparagraph (B),
23 the deductible limits under section 404(a)(7)
24 shall first be applied to amounts contributed to

1 a defined benefit plan and then to amounts de-
2 scribed in subparagraph (B).”

3 (b) *EFFECTIVE DATE.*—

4 (1) *SECTION 4972(C)(6)(A).*—Section 4972(c)(6)(A)
5 of the Internal Revenue Code of 1986 (as added by
6 this section) shall apply to taxable years ending on
7 or after the date of enactment of this Act.

8 (2) *SECTION 4972(C)(6)(B).*—Section 4972(c)(6)(B)
9 of such Code (as added by this section) shall apply to
10 taxable years ending on or after December 31, 1992.

11 ***Subtitle B—Amendments to the Em-***
12 ***ployee Retirement Income Secu-***
13 ***rity Act of 1974***

14 ***SEC. 121. MINIMUM FUNDING REQUIREMENTS.***

15 (a) *AMENDMENTS TO ADDITIONAL FUNDING REQUIRE-*
16 *MENTS FOR SINGLE-EMPLOYER PLANS.*—

17 (1) *LIMITATION OF ADDITIONAL FUNDING RE-*
18 *QUIREMENT TO PLANS HAVING A FUNDED CURRENT*
19 *LIABILITY PERCENTAGE OF LESS THAN 90 PERCENT.*—
20 Paragraph (1) of section 302(d) of the Employee Re-
21 tirement Income Security Act of 1974 (29 U.S.C.
22 1082(d)) is amended by striking “which has an un-
23 funded current liability” and inserting “which has a
24 funded current liability percentage of less than 90
25 percent”.

1 (2) *RELATIONSHIP OF ADDITIONAL FUNDING RE-*
2 *QUIREMENT TO FUNDING STANDARD ACCOUNT*
3 *CHARGES AND CREDITS.—*

4 (A) *Clause (ii) of section 302(d)(1)(A) of*
5 *such Act is amended to read as follows:*

6 *“(ii) the sum of the charges for such*
7 *plan year under subsection (b)(2), reduced*
8 *by the sum of the credits for such plan year*
9 *under subparagraph (B) of subsection*
10 *(b)(3), plus”.*

11 (B) *The last sentence in section 302(d)(1) of*
12 *such Act is amended to read as follows:*

13 *“Such increase shall not exceed the amount which,*
14 *after taking into account charges (other than the ad-*
15 *ditional charge under this subsection) and credits*
16 *under subsection (b), is necessary to increase the*
17 *funded current liability percentage (taking into ac-*
18 *count the expected increase in current liability due to*
19 *benefits accruing during the plan year) to 100 per-*
20 *cent.”*

21 (3) *AMENDMENT TO DEFICIT REDUCTION CON-*
22 *TRIBUTION.—Paragraph (2) of section 302(d) of such*
23 *Act is amended—*

24 (A) *by striking “plus” at the end of sub-*
25 *paragraph (A);*

1 (B) by striking the period at the end of sub-
2 paragraph (B) and inserting “; plus”; and

3 (C) by adding at the end the following new
4 subparagraph:

5 “(C) the expected increase in current liabil-
6 ity due to benefits accruing during the plan
7 year.”

8 (4) INCREASE IN CURRENT LIABILITY DUE TO
9 CHANGE IN REQUIRED ASSUMPTIONS.—

10 (A) Paragraph (3) of section 302(d) of such
11 Act is amended by adding at the end the follow-
12 ing new subparagraph:

13 “(D) SPECIAL RULE FOR REQUIRED
14 CHANGES IN ACTUARIAL ASSUMPTIONS.—

15 “(i) IN GENERAL.—The unfunded old
16 liability amount with respect to any plan
17 for any plan year shall be increased by the
18 amount necessary to amortize the amount of
19 additional unfunded old liability under the
20 plan in equal annual installments over a
21 period of 12 plan years (beginning with the
22 first plan year beginning after December
23 31, 1994).

24 “(ii) ADDITIONAL UNFUNDED OLD LI-
25 ABILITY.—For purposes of clause (i), the

1 term ‘additional unfunded old liability’
2 means the amount (if any) by which—

3 “(I) the current liability of the
4 plan as of the beginning of the first
5 plan year beginning after December
6 31, 1994, valued using the assumptions
7 required by paragraph (7)(C) as in ef-
8 fect for plan years beginning after De-
9 cember 31, 1994, exceeds

10 “(II) the current liability of the
11 plan as of the beginning of such first
12 plan year, valued using the same as-
13 sumptions used under subclause (I)
14 (other than the assumptions required
15 by paragraph (7)(C)), using the prior
16 interest rate, and using such mortality
17 assumptions as were used to determine
18 current liability for the first plan year
19 beginning after December 31, 1992.

20 “(iii) *PRIOR INTEREST RATE*.—For
21 purposes of clause (ii), the term ‘prior in-
22 terest rate’ means the rate of interest that is
23 the same percentage of the weighted average
24 under subsection (b)(5)(B)(ii)(I) for the
25 first plan year beginning after December

1 31, 1994, as the rate of interest used by the
 2 plan to determine current liability for the
 3 first plan year beginning after December
 4 31, 1992, is of the weighted average under
 5 subsection (b)(5)(B)(ii)(I) for such first
 6 plan year beginning after December 31,
 7 1992.”

8 (5) *APPLICABLE PERCENTAGE FOR DETERMINING*
 9 *UNFUNDED NEW LIABILITY AMOUNT.*—Subparagraph
 10 (C) of section 302(d)(4) of such Act is amended—

11 (A) by striking “.25” and inserting “.40”,

12 and

13 (B) by striking “35” and inserting “60”.

14 (6) *UNPREDICTABLE CONTINGENT EVENT*
 15 *AMOUNT.*—

16 (A) Subparagraph (A) of section 302(d)(5)
 17 of such Act is amended—

18 (i) by striking “greater of” and insert-
 19 ing “greatest of” before clause (i);

20 (ii) by striking “or” at the end of
 21 clause (i);

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

24 (iv) by adding after clause (ii) the fol-
 25 lowing new clause:

1 “(iii) the additional amount that
2 would be determined under paragraph
3 (4)(A) if the unpredictable contingent event
4 benefit liabilities were included in unfunded
5 new liability notwithstanding paragraph
6 (4)(B)(ii).”

7 (B) Paragraph (5) of section 302(d) of such
8 Act is amended by adding at the end the follow-
9 ing new subparagraph:

10 “(E) LIMITATION.—The present value of the
11 amounts described in subparagraph (A) with re-
12 spect to any one event shall not exceed the unpre-
13 dictable contingent event benefit liabilities at-
14 tributable to that event.”

15 (C) Clause (ii) of section 302(e)(4)(D) of
16 such Act is amended—

17 (i) by striking “greater of” and insert-
18 ing “greatest of” before subclause (I);

19 (ii) by striking “or” at the end of
20 subclause (I);

21 (iii) by striking the period at the end
22 of subclause (II) and inserting “, or”; and

23 (iv) by adding after subclause (II) the
24 following new clause:

1 “(III) 25 percent of the amount
2 determined under subsection
3 (d)(5)(A)(iii) for the plan year.”

4 (7) *REQUIRED INTEREST RATE AND MORTALITY*
5 *ASSUMPTIONS FOR DETERMINING CURRENT LIABIL-*
6 *ITY.—Subparagraph (C) of section 302(d)(7) of such*
7 *Act is amended to read as follows:*

8 “(C) *INTEREST RATE AND MORTALITY AS-*
9 *SUMPTIONS USED.—Effective for plan years be-*
10 *ginning after December 31, 1994—*

11 “(i) *the rate of interest used to deter-*
12 *mine current liability under this subsection*
13 *shall be the rate of interest used under sub-*
14 *section (b)(5), except that the highest rate in*
15 *the permissible range under subparagraph*
16 *(B)(ii) thereof shall not exceed 100 percent*
17 *of the weighted average referred to in such*
18 *subparagraph, and*

19 “(ii) *the mortality table used to deter-*
20 *mine current liability under this subsection*
21 *shall be the table prescribed by the Sec-*
22 *retary of the Treasury.*

23 *The table prescribed under clause (ii) shall be*
24 *based on the prevailing commissioners’ standard*
25 *table (described in section 807(d)(5)(A) of the In-*

1 *ternal Revenue Code of 1986) used to determine*
2 *reserves for group annuity contracts issued on*
3 *the date as of which current liability is deter-*
4 *mined (without regard to any other subpara-*
5 *graph of section 807(d)(5) of such Code).”*

6 (8) *TRANSITION RULE.—Section 302(d) of such*
7 *Act is amended by adding at the end the following*
8 *new paragraph:*

9 *“(9) PHASEIN OF INCREASES IN FUNDING RE-*
10 *QUIRED BY RETIREMENT PROTECTION ACT OF 1994.—*

11 *“(A) IN GENERAL.—For any applicable*
12 *plan year, at the election of the employer, the in-*
13 *crease under paragraph (1) shall not exceed the*
14 *greater of—*

15 *“(i) the increase that would be required*
16 *under paragraph (1) if the provisions of*
17 *this title as in effect for plan years begin-*
18 *ning before January 1, 1995, had remained*
19 *in effect, or*

20 *“(ii) the amount which, after taking*
21 *into account charges (other than the addi-*
22 *tional charge under this subsection) and*
23 *credits under subsection (b), is necessary to*
24 *increase the funded current liability per-*
25 *centage (taking into account the expected*

1 *increase in current liability due to benefits*
 2 *accruing during the plan year) for the ap-*
 3 *plicable plan year to a percentage equal to*
 4 *the sum of the initial funded current liabil-*
 5 *ity percentage of the plan plus the applica-*
 6 *ble number of percentage points for such ap-*
 7 *plicable plan year.*

8 “(B) *APPLICABLE NUMBER OF PERCENTAGE*
 9 *POINTS.—*

10 “(i) *INITIAL FUNDED CURRENT LIABIL-*
 11 *ITY PERCENTAGE OF 75 PERCENT OR*
 12 *LESS.—Except as provided in clause (ii),*
 13 *for plans with an initial funded current li-*
 14 *ability percentage of 75 percent or less, the*
 15 *applicable number of percentage points for*
 16 *the applicable plan year is:*

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

17 “(ii) *OTHER CASES.—In the case of a plan*
 18 *to which this clause applies, the applicable num-*
 19 *ber of percentage points for any such applicable*
 20 *plan year is the sum of—*

1 “(I) 2 percentage points;

2 “(II) the applicable number of
3 percentage points (if any) under this
4 clause for the preceding applicable
5 plan year;

6 “(III) the product of .10 multi-
7 plied by the excess (if any) of (a) 85
8 percentage points over (b) the sum of
9 the initial funded current liability per-
10 centage and the number determined
11 under subclause (II);

12 “(IV) for applicable plan years
13 beginning in 2000, 1 percentage point;
14 and

15 “(V) for applicable plan years be-
16 ginning in 2001, 2 percentage points.

17 “(iii) PLANS TO WHICH CLAUSE (i)
18 APPLIES.—

19 “(I) IN GENERAL.—Clause (ii)
20 shall apply to a plan for an applicable
21 plan year if the initial funded current
22 liability percentage of such plan is
23 more than 75 percent.

24 “(II) PLANS INITIALLY UNDER
25 CLAUSE (i).—In the case of a plan

1 *which (but for this subclause) has an*
2 *initial funded current liability per-*
3 *centage of 75 percent or less, clause (ii)*
4 *(and not clause (i)) shall apply to such*
5 *plan with respect to applicable plan*
6 *years beginning after the first applica-*
7 *ble plan year for which the sum of the*
8 *initial funded current liability per-*
9 *centage and the applicable number of*
10 *percentage points (determined under*
11 *clause (i)) exceeds 75 percent. For pur-*
12 *poses of applying clause (ii) to such a*
13 *plan, the initial funded current liabil-*
14 *ity percentage of such plan shall be*
15 *treated as being the sum referred to in*
16 *the preceding sentence.*

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

19 “(i) *The term ‘applicable plan year’*
20 *means a plan year beginning after Decem-*
21 *ber 31, 1994, and before January 1, 2002.*

22 “(ii) *The term ‘initial funded current*
23 *liability percentage’ means the funded cur-*
24 *rent liability percentage as of the first day*

1 *of the first plan year beginning after De-*
2 *cember 31, 1994.”*

3 (9) *LIQUIDITY REQUIREMENT.—*

4 (A) *Section 302(e) of such Act is amended*
5 *by redesignating paragraph (5) as paragraph*
6 *(6) and by inserting after paragraph (4) the fol-*
7 *lowing new paragraph:*

8 “(5) *LIQUIDITY REQUIREMENT.—*

9 “(A) *IN GENERAL.—A plan to which this*
10 *paragraph applies shall be treated as failing to*
11 *pay the full amount of any required installment*
12 *to the extent that the value of the liquid assets*
13 *paid in such installment is less than the liquid-*
14 *ity shortfall (whether or not such liquidity short-*
15 *fall exceeds the amount of such installment re-*
16 *quired to be paid but for this paragraph).*

17 “(B) *PLANS TO WHICH PARAGRAPH AP-*
18 *PLIES.—This paragraph shall apply to a defined*
19 *benefit plan to which subsection (d) applies and*
20 *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 in-
3 stallment that is treated as not paid under sub-
4 paragraph (A) shall continue to be treated as
5 unpaid until the close of the quarter in which the
6 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 shall
10 such increase exceed the amount which, when
11 added to prior installments for the plan year, is
12 necessary to increase the funded current liability
13 percentage (taking into account the expected in-
14 crease in current liability due to benefits accru-
15 ing during the plan year) to 100 percent.

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

18 “(i) *LIQUIDITY SHORTFALL.*—The term
19 ‘liquidity shortfall’ means, with respect to
20 any required installment, an amount equal
21 to the excess (as of the last day of the quar-
22 ter for which such installment is made) of
23 the base amount with respect to such quar-
24 ter over the value (as of such last day) of
25 the plan’s liquid assets.

1 “(ii) *BASE AMOUNT.*—

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

8 “(II) *SPECIAL RULE.*—If the
9 amount determined under clause (i)
10 exceeds an amount equal to 2 times the
11 sum of the adjusted disbursements from
12 the plan for the 36 months ending on
13 the last day of the quarter and an en-
14 rolled actuary certifies to the Secretary
15 of the Treasury that such excess is the
16 result of nonrecurring circumstances,
17 the base amount with respect to such
18 quarter shall be determined without re-
19 gard to amounts related to those non-
20 recurring circumstances.

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

1 *payments of single sums and other benefits,*
2 *and administrative expenses.*

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

7 “(I) *the plan’s funded current li-*
8 *ability percentage (as defined in sub-*
9 *section (d)(8)) for the plan year, and*

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

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

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

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

4 (B) *LIMITATION ON DISTRIBUTIONS OTHER*
5 *THAN LIFE ANNUITIES PAID BY THE PLAN.*—

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

11 “(i) *LIMITATION ON DISTRIBUTIONS OTHER THAN*
12 *LIFE ANNUITIES PAID BY THE PLAN.*—

13 “(1) *IN GENERAL.*—*Notwithstanding any other*
14 *provision of this Part, the fiduciary of a pension plan*
15 *that is subject to the additional funding requirements*
16 *of section 302(d) shall not permit a prohibited pay-*
17 *ment to be made from a plan during a period in*
18 *which such plan has a liquidity shortfall (as defined*
19 *in section 302(e)(5)).*

20 “(2) *PROHIBITED PAYMENT.*—*For purposes of*
21 *paragraph (1), the term ‘prohibited payment’*
22 *means—*

23 “(A) *any payment, in excess of the monthly*
24 *amount paid under a single life annuity (plus*
25 *any social security supplements described in the*

1 *last sentence of section 204(b)(1)(G)), to a par-*
2 *icipant or beneficiary whose annuity starting*
3 *date (as defined in section 205(h)(2)), that oc-*
4 *currs during the period referred to in paragraph*
5 *(1),*

6 *“(B) any payment for the purchase of an*
7 *irrevocable commitment from an insurer to pay*
8 *benefits, and*

9 *“(C) any other payment specified by the*
10 *Secretary of the Treasury by regulations.*

11 *“(3) PERIOD OF SHORTFALL.—For purposes of*
12 *this subsection, a plan has a liquidity shortfall dur-*
13 *ing the period that there is an underpayment of an*
14 *installment under section 302(e) by reason of para-*
15 *graph (5)(A) thereof.*

16 *“(4) COORDINATION WITH OTHER PROVISIONS.—*
17 *Compliance with this subsection shall not constitute a*
18 *violation of any other provision of this Act.”*

19 *(ii) Section 502 of such Act is amended*
20 *by adding at the end thereof a new sub-*
21 *section (m) to read as follows:*

22 *“(m) In the case of a distribution to a pension plan*
23 *participant or beneficiary in violation of section 204(i) by*
24 *a plan fiduciary, the Secretary shall assess a penalty*
25 *against such fiduciary in an amount equal to the value of*

1 *the distribution. Such penalty shall not exceed \$10,000 for*
2 *each such distribution.”*

3 (10) *AMENDMENT TO DEFINITION OF FULL*
4 *FUNDING LIMITATION.—*

5 (A) *Subparagraph (A) of section 302(c)(7)*
6 *of such Act is amended—*

7 (i) *by inserting “(including the ex-*
8 *pected increase in current liability due to*
9 *benefits accruing during the plan year)”*
10 *after “current liability” in clause (i), and*

11 (ii) *by adding at the end the following*
12 *flush sentences:*

13 *“In no event shall the excess described in the pre-*
14 *ceding sentence for any plan year be less than*
15 *the unfunded current liability (if any) of the*
16 *plan. For purposes of the preceding sentence, the*
17 *term ‘unfunded current liability’ has the mean-*
18 *ing given such term by subsection (d)(8) (deter-*
19 *mined without regard to subsection (d)(7)(D)).”*

20 (B) *Subparagraph (B) of section 302(c)(7)*
21 *of such Act is amended to read as follows:*

22 *“(B) CURRENT LIABILITY.—For purposes of*
23 *subparagraph (D) and subclause (I) of subpara-*
24 *graph (A)(i), the term ‘current liability’ has the*
25 *meaning given such term by subsection (d)(7)*

1 *(without regard to subparagraphs (C) and (D)*
2 *thereof) and using the rate of interest used under*
3 *subsection (b)(5)(B).”*

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

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

8 ***ASSUMPTIONS.***

9 ***(a) Paragraph (5) of section 302(c) of the Employee***
10 *Retirement Income Security Act of 1974 (29 U.S.C.*
11 *1082(c)(5)) is amended—*

12 ***(1) by striking “If the funding method” and in-***
13 *serting the following:*

14 ***“(A) IN GENERAL.—If the funding method”,***
15 ***and***

16 ***(2) by adding at the end the following new sub-***
17 *paragraph:*

18 ***“(B) APPROVAL REQUIRED FOR CERTAIN***
19 ***CHANGES IN ASSUMPTIONS BY CERTAIN SINGLE***
20 ***EMPLOYER PLANS SUBJECT TO ADDITIONAL***
21 ***FUNDING REQUIREMENT.—***

22 ***“(i) IN GENERAL.—No actuarial as-***
23 ***sumption (other than the assumptions de-***
24 ***scribed in subsection (d)(7)(C)) used to de-***
25 ***termine the current liability for a plan to***

1 *which this subparagraph applies may be*
2 *changed without the approval of the Sec-*
3 *retary of the Treasury.*

4 “(ii) *PLANS TO WHICH SUBPARAGRAPH*
5 *APPLIES.—This subparagraph shall apply*
6 *to a plan only if—*

7 “(I) *subsection (d) applies to the*
8 *plan;*

9 “(II) *the employer (within the*
10 *meaning of section 302(c)(11) (without*
11 *regard to subparagraph (B) thereof)*
12 *maintaining such plan is described in*
13 *section 4043(b)(1); and*

14 “(III) *the change in assumptions*
15 *(determined after taking into account*
16 *any changes in interest rate and mor-*
17 *tality table) results in a decrease in the*
18 *unfunded current liability of the plan*
19 *for the current plan year that is*
20 *\$50,000,000 or greater, or that is*
21 *\$5,000,000 or greater and that is 5*
22 *percent or more of the current liability*
23 *of the plan before such change.”*

24 (b) *EFFECTIVE DATE.—*

1 (1) *IN GENERAL.*—*The amendment made by this*
2 *section shall apply to changes in assumptions for*
3 *plan years beginning after October 28, 1993.*

4 (2) *CERTAIN CHANGES CEASE TO BE EFFEC-*
5 *TIVE.*—*In the case of changes in assumptions for plan*
6 *years beginning after December 31, 1992, and on or*
7 *before October 28, 1993, such changes shall cease to be*
8 *effective for plan years beginning after December 31,*
9 *1994, if—*

10 (A) *such change would have required the*
11 *approval of the Secretary of the Treasury had*
12 *such amendment applied to such change, and*

13 (B) *such change is not so approved.*

14 **SEC. 123. ANTICIPATION OF BARGAINED BENEFIT IN-**
15 **CREASES.**

16 (a) *IN GENERAL.*—*Section 302(c) of the Employee Re-*
17 *tirement Income Security Act of 1974 (29 U.S.C. 1082(c))*
18 *is amended by adding at the end the following new para-*
19 *graph:*

20 “(12) *ANTICIPATION OF BENEFIT INCREASES EF-*
21 *FECTIVE IN THE FUTURE.*—*In determining projected*
22 *benefits, the funding method of a collectively bar-*
23 *gained plan described in section 413(a) of the Inter-*
24 *nal Revenue Code of 1986 (other than a multiem-*
25 *ployer plan) shall anticipate benefit increases sched-*

1 **TITLE II—AMENDMENTS RELAT-**
2 **ED TO TITLE IV OF THE EM-**
3 **PLOYEE RETIREMENT IN-**
4 **COME SECURITY ACT OF 1974**

5 **SEC. 201. REPORTABLE EVENTS.**

6 (a) *RESPONSIBILITY FOR REPORTABLE EVENTS RE-*
7 *PORTING.*—Section 4043(a) of the Employee Retirement In-
8 come Security Act of 1974 (29 U.S.C. 1343(a)) is amend-
9 ed—

10 (1) *in the first sentence, by inserting “or the con-*
11 *tributing sponsor” before “knows or has reason to*
12 *know”;*

13 (2) *in the first sentence, by inserting “, unless a*
14 *notice otherwise required under this subsection has al-*
15 *ready been provided with respect to such event” before*
16 *the period at the end; and*

17 (3) *by striking the last sentence.*

18 (b) *NOTIFICATION THAT EVENT IS ABOUT TO*
19 *OCCUR.*—Section 4043 of such Act is amended by redesign-
20 ating subsections (b), (c), and (d) as (c), (d), and (e), re-
21 spectively, and by inserting after subsection (a) the follow-
22 ing new subsection:

23 “(b)(1) *The requirements of this subsection shall be ap-*
24 *plicable to a contributing sponsor only if the aggregate un-*
25 *funded vested benefits at the close of the preceding plan year*

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

6 “(2) No later than 30 days prior to the effective date
7 of an event described in paragraph (9), (10), (11), (12),
8 or (13) of subsection (c), a contributing sponsor to which
9 the requirements of this subsection apply shall notify the
10 corporation that the event is about to occur.

11 “(3) The corporation may waive the requirement of
12 this subsection with respect to any or all reportable events
13 with respect to any contributing sponsor.”

14 (c) *NEW REPORTABLE EVENTS.*—Subsection (c) of sec-
15 tion 4043 of such Act (as redesignated by subsection (b))
16 is amended—

17 (1) by striking the “or” at the end of paragraph
18 (8);

19 (2) by striking paragraph (9); and

20 (3) by inserting after paragraph (8) the follow-
21 ing new paragraphs:

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

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

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

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

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

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

1 (d) *DISCLOSURE EXEMPTION.*—Section 4043 of such
2 Act is amended by adding at the end the following new sub-
3 section:

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

14 (e) *TECHNICAL AND CONFORMING AMENDMENTS.*—

15 (1) Subsection (a) of section 4043 of such Act,
16 and subsections (d) and (e) of such section 4043 (as
17 redesignated by subsection (b)) are amended by strik-
18 ing “subsection (b)” each place it appears and insert-
19 ing “subsection (c)”.

20 (2) Section 4042(a)(3) of such Act is amended by
21 striking “4043(b)(7)” and inserting “4043(c)(7)”.

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

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

2 (a) *IN GENERAL.*—Subtitle C of title IV of the Em-
3 ployee Retirement Income Security Act of 1974 (29 U.S.C.
4 1341 et seq.) is amended by adding at the end the following
5 new section:

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

8 “(a) *INSTITUTION OF PROCEEDINGS.*—

9 “(1) *IN GENERAL.*—Whenever the corporation de-
10 termines (without regard to the potential availability
11 of relief under this section) that, upon the occurrence
12 of an event described in paragraph (9), (10), (11),
13 (12), or (13) of section 4043(c), the possible long-run
14 loss of the corporation with respect to a plan may
15 reasonably be expected to increase unreasonably if the
16 plan is not terminated, the corporation may, in its
17 discretion, institute proceedings under this section as
18 an alternative to instituting proceedings under sec-
19 tion 4042 to terminate the plan.

20 “(2) *LIMITATION.*—In the case of an event de-
21 scribed in paragraph (9) or (13) of section 4043(c),
22 this section shall apply only if, immediately after the
23 effective date of the event, the total revenues, the total
24 operating income, or the total assets of a contributing
25 sponsor and all members of its controlled group would
26 be less than 90 percent of the total revenues, the total

1 *operating income, or the total assets, respectively, of*
2 *a contributing sponsor and all members of its con-*
3 *trolled group immediately before the effective date of*
4 *the event. For purposes of this paragraph, all events*
5 *occurring in any 12-month period shall be treated as*
6 *a single event.*

7 *“(b) Whenever the corporation makes a determination*
8 *under subsection (a), it may, upon notice to a contributing*
9 *sponsor, apply to the appropriate United States district*
10 *court for such legal or equitable relief as the corporation*
11 *deems appropriate and consistent with its duties under this*
12 *title. The court shall consider the interests of both the par-*
13 *ticipants and the corporation, and shall grant such relief,*
14 *if any, as it determines is necessary to protect those inter-*
15 *ests without interfering unreasonably with the business of*
16 *the contributing sponsor or members of its controlled group.*

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

1 brought no later than 20 days after the corporation receives
2 all the information and documentary material it had re-
3 quired.

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

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

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

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

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

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

14 (c) *CLERICAL AMENDMENT.*—The table of contents
15 contained in section 1 of such Act is amended by inserting
16 after the item relating to section 4049 the following new
17 item:

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

18 (d) *EFFECTIVE DATE.*—The amendments made by this
19 section shall be effective for events occurring 60 days or
20 more after the date of the enactment of this Act.

21 **SEC. 203. CERTAIN INFORMATION REQUIRED TO BE FUR-**
22 **NISHED TO PBGC.**

23 (a) *GENERAL RULE.*—Subtitle A of title IV of the Em-
24 ployee Retirement Income Security Act of 1974 (29 U.S.C.

1 1301 et seq.) is amended by adding at the end the following
2 new section:

3 **“SEC. 4010. AUTHORITY TO REQUIRE CERTAIN INFORMA-**
4 **TION.**

5 “(a) *INFORMATION REQUIRED.*—Each person de-
6 scribed in subsection (b) shall provide the corporation an-
7 nually, on or before a date specified by the corporation in
8 regulations, with—

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

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

17 “(b) *PERSONS REQUIRED TO PROVIDE INFORMA-*
18 *TION.*—The persons covered by subsection (a) are each con-
19 tributing sponsor, and each member of a contributing spon-
20 sor’s controlled group, of a single-employer plan covered by
21 this title, if—

22 “(1) the aggregate unfunded vested benefits at the
23 end of the preceding plan year (as determined under
24 section 4006(a)(3)(E)(iii)) of plans maintained by
25 the contributing sponsor and the members of its con-

1 *trolled group exceed \$50,000,000 (taking into account*
2 *only those plans of the contributing sponsor and its*
3 *controlled group with unfunded vested benefits);*

4 *“(2) the conditions for imposition of a lien de-*
5 *scribed in section 302(f)(1)(A) and (B) of this Act or*
6 *section 412(n)(1)(A) and (B) of the Internal Revenue*
7 *Code of 1986 have been met with respect to any plan*
8 *maintained by the contributing sponsor or any mem-*
9 *ber of its controlled group; or*

10 *“(3) minimum funding waivers in excess of*
11 *\$1,000,000 have been granted with respect to any*
12 *plan maintained by the contributing sponsor or any*
13 *member of its controlled group, and any portion*
14 *thereof is still outstanding.*

15 *“(c) INFORMATION EXEMPT FROM DISCLOSURE RE-*
16 *QUIREMENTS.—Any information or documentary material*
17 *submitted to the corporation pursuant to this section shall*
18 *be exempt from disclosure under section 552 of title 5,*
19 *United States Code, and no such information or documen-*
20 *tary material may be made public, except as may be rel-*
21 *evant to any administrative or judicial action or proceed-*
22 *ing. Nothing in this section is intended to prevent disclosure*
23 *to either body of Congress or to any duly authorized com-*
24 *mittee or subcommittee of the Congress.”*

1 (b) *CLERICAL AMENDMENT.*—*The table of contents*
 2 *contained in section 1 of such Act is amended by inserting*
 3 *after the item relating to section 4009 the following new*
 4 *item:*

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

5 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 6 *section shall be effective on the date of enactment of this*
 7 *Act.*

8 ***SEC. 204. LIABILITY UPON LIQUIDATION OF CONTRIBUTING***
 9 ***SPONSOR OR CONTROLLED GROUP MEMBER***
 10 ***WHERE PLAN REMAINS ONGOING.***

11 (a) *IN GENERAL.*—*Section 4062 of the Employee Re-*
 12 *tirement Income Security Act of 1974 (29 U.S.C. 1362) is*
 13 *amended by adding at the end the following new subsection:*

14 “*(f) LIABILITY ON LIQUIDATION OF CONTRIBUTING*
 15 *SPONSOR OR CONTROLLED GROUP MEMBER.*—

16 “*(1) IN GENERAL.*—*In any case in which all or*
 17 *substantially all of the assets of a person who is a*
 18 *contributing sponsor of a single-employer plan, or a*
 19 *member of a controlled group of a contributing spon-*
 20 *sor of a single-employer plan, are liquidated in a case*
 21 *under title 11, United States Code, or under any*
 22 *similar Federal law or law of a State or political sub-*
 23 *division of a State, but the plan is not terminated,*
 24 *such person shall be deemed liable under subsection*
 25 (b) *as if the plan had terminated under section*

1 4041(c) in the course of such liquidation and as if the
2 termination date were the date determined by the cor-
3 poration as the date on which the liquidation was
4 initiated.

5 “(2) LIMITED JOINT AND SEVERAL LIABILITY.—
6 The liability under this subsection shall be joint and
7 several only among the members of the controlled
8 group (including, where applicable, the contributing
9 sponsor) who are liquidating as described in para-
10 graph (1).

11 “(3) APPLICABILITY OF OTHER PROVISIONS.—
12 Except as provided in paragraph (2), any provision
13 of this Act or any other provision of law that applies
14 to liability under the preceding subsections of this sec-
15 tion upon termination of a plan shall apply in the
16 same manner and to the same extent to the liability
17 established under this subsection. For purposes of this
18 paragraph, the date referred to in paragraph (1) shall
19 be deemed the termination date.

20 “(4) LIABILITY OWED TO PLAN; TRANSFER OF LI-
21 ABILITY PAYMENTS TO THE ONGOING PLAN WHERE
22 COLLECTED BY THE CORPORATION.—The liability es-
23 tablished under this subsection shall be owed to the
24 plan, and may be collected by either the plan or the
25 corporation. The corporation shall pay to the plan

1 *any amounts collected by the corporation in satisfac-*
2 *tion of the liability established under this subsection*
3 *in connection with such plan.*

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

6 “(A) *rules governing—*

7 “(i) *the determination of whether and*
8 *when a liquidation referred to in this sub-*
9 *section has occurred, and*

10 “(ii) *the assignment of the plan’s or*
11 *corporation’s claim to liability payments*
12 *under this subsection to other members of*
13 *the controlled group as a means of collecting*
14 *such payments, subject to the transfer of*
15 *such payments to the plan, and*

16 “(B) *rules providing alternative arrange-*
17 *ments for making liability payments under this*
18 *subsection.”*

19 “(b) *CONFORMING AMENDMENT.*—*Section 4062(a) of*
20 *such Act is amended—*

21 “(1) *in paragraph (1), by striking “and” after*
22 *“subsection (b),”;*

23 “(2) *in paragraph (2), by striking the period after*
24 *“subsection (c)” and inserting “, and”;* and

1 (3) by adding at the end the following new para-
2 graph:

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

5 (c) COORDINATION WITH MINIMUM FUNDING
6 RULES.—

7 (1) 1986 CODE.—Section 412(c) of the Internal
8 Revenue Code of 1986 is amended by adding at the
9 end the following new paragraph:

10 “(13) TREATMENT OF LIABILITY ON LIQUIDATION
11 OF EMPLOYER.—Any amount paid to a plan pursu-
12 ant to section 4062(f) of the Employee Retirement In-
13 come Security Act of 1974—

14 “(A) shall be treated as not contributed by
15 the employer for purposes of subsection (b)(3)(A),
16 and

17 “(B) shall be treated as a net experience
18 gain of the plan under subsection (b)(3)(B)(ii).”

19 (2) ERISA.—Section 302(c) of the Employee Re-
20 tirement Income Security Act of 1974 is amended by
21 adding at the end the following new paragraph:

22 “(13) TREATMENT OF LIABILITY ON LIQUIDATION
23 OF EMPLOYER.—Any amount paid to a plan pursu-
24 ant to section 4062(f)—

1 “(A) shall be treated as not contributed by
2 the employer for purposes of subsection (b)(3)(A),
3 and

4 “(B) shall be treated as a net experience
5 gain of the plan under subsection (b)(3)(B)(ii).”

6 (d) *EFFECTIVE DATE.*—The amendments made by this
7 section shall be effective for liquidations initiated on or
8 after the date of enactment of this Act.

9 **SEC. 205. ENFORCEMENT OF MINIMUM FUNDING REQUIRE-**
10 **MENTS.**

11 (a) *IN GENERAL.*—Paragraph (1) of section 4003(e)
12 of the Employee Retirement Income Security Act of 1974
13 (29 U.S.C. 1303(e)(1)) is amended—

14 (1) by inserting “(A)” after “enforce”; and

15 (2) by striking the period after “title” and in-
16 serting “, and (B) in the case of a plan which is cov-
17 ered under this title (other than a multiemployer
18 plan) and for which the conditions for imposition of
19 a lien described in section 302(f)(1)(A) and (B) of
20 this Act or section 412(n)(1)(A) and (B) of the Inter-
21 nal Revenue Code of 1986 have been met, section 302
22 of this Act and section 412 of such Code.”

23 (b) *EFFECTIVE DATE.*—The amendments made by this
24 section shall be effective for installments and other pay-
25 ments required under section 302 of the Employee Retire-

1 *ment Income Security Act of 1974 or section 412 of the In-*
2 *ternal Revenue Code of 1986 that become due on or after*
3 *the date of the enactment of this Act.*

4 **SEC. 206. REMEDIES FOR NONCOMPLIANCE WITH REQUIRE-**
5 **MENTS FOR STANDARD TERMINATION.**

6 (a) NOTICE OF NONCOMPLIANCE.—Section
7 4041(b)(2)(C)(i) of the Employee Retirement Income Secu-
8 rity Act of 1974 (29 U.S.C. 1341(b)(2)(C)(i)) is amended—

9 (1) by striking subclause (I) and inserting the
10 following new subclause:

11 “(I) it determines, based on the
12 notice sent under paragraph (2)(A) of
13 subsection (b), that there is reason to
14 believe that the plan is not sufficient
15 for benefit liabilities, or”;

16 (2) by striking the period at the end of subclause
17 (II) and inserting “, or”; and

18 (3) by adding at the end the following new
19 subclause:

20 “(III) it determines that any
21 other requirement of subparagraph (A)
22 or (B) of this paragraph or of sub-
23 section (a)(2) has not been met, unless
24 it further determines that the issuance
25 of such notice would be inconsistent

1 with the interests of participants and
2 beneficiaries.”

3 (b) *EFFECTIVE DATE.*—The amendments made by this
4 section shall apply to any plan termination under section
5 4041(b) of the Employee Retirement Income Security Act
6 of 1974 with respect to which the Pension Benefit Guaranty
7 Corporation has not, as of the date of enactment of this
8 Act, issued a notice of noncompliance that has become final,
9 or otherwise issued a final determination that the plan ter-
10 mination is nullified.

11 **SEC. 207. PROHIBITION ON BENEFIT INCREASES WHERE**
12 **PLAN SPONSOR IS IN BANKRUPTCY.**

13 (a) *AMENDMENT TO THE EMPLOYEE RETIREMENT IN-*
14 *COME SECURITY ACT OF 1974.*—Section 204 of the Em-
15 ployee Retirement Income Security Act of 1974 (29 U.S.C.
16 1054), as amended by section 121 of this Act, is further
17 amended by redesignating subsection (j) as (k) and insert-
18 ing a new subsection (j) to read as follows:

19 “(j)(1) In the case of a plan described in paragraph
20 (3) which is maintained by an employer that is a debtor
21 in a case under title 11, United States Code, or similar
22 Federal or State law, no amendment of the plan which in-
23 creases the liabilities of the plan by reason of—

24 “(A) any increase in benefits,

25 “(B) any change in the accrual of benefits, or

1 “(C) any change in the rate at which benefits be-
2 come nonforfeitable under the plan,
3 with respect to employees of the debtor, shall be effective
4 prior to the effective date of such employer’s plan of reorga-
5 nization.

6 “(2) Paragraph (1) shall not apply to any plan
7 amendment that—

8 “(A) the Secretary of the Treasury determines to
9 be reasonable and that provides for only de minimis
10 increases in the liabilities of the plan with respect to
11 employees of the debtor,

12 “(B) only repeals an amendment described in
13 section 302(c)(8),

14 “(C) is required as a condition of qualification
15 under part I of subchapter D, of chapter 1, of the In-
16 ternal Revenue Code of 1986, or

17 “(D) was adopted prior to, or pursuant to a col-
18 lective bargaining agreement entered into prior to, the
19 date on which the employer became a debtor in a case
20 under title 11, United States Code, or similar Federal
21 or State law.

22 “(3) This subsection shall apply only to plans (other
23 than multiemployer plans) covered under section 4021 of
24 this Act for which the funded current liability percentage
25 (within the meaning of section 302(d)(8) of this Act) is less

1 *than 100 percent after taking into account the effect of the*
2 *amendment.*

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

6 *(b) AMENDMENT TO INTERNAL REVENUE CODE OF*
7 *1986.—Section 401(a) of the Internal Revenue Code of*
8 *1986, as amended by section 101 of this Act, is further*
9 *amended by adding at the end the following new paragraph:*

10 *“(33) PROHIBITION ON BENEFIT INCREASES*
11 *WHILE SPONSOR IS IN BANKRUPTCY.—*

12 *“(A) IN GENERAL.—A trust which is part of*
13 *a plan to which this paragraph applies shall not*
14 *constitute a qualified trust under this section if*
15 *an amendment to such plan is adopted while the*
16 *employer is a debtor in a case under title 11,*
17 *United States Code, or similar Federal or State*
18 *law, if such amendment increases liabilities of*
19 *the plan by reason of—*

20 *“(i) any increase in benefits,*

21 *“(ii) any change in the accrual of ben-*
22 *efits, or*

23 *“(iii) any change in the rate at which*
24 *benefits become nonforfeitable under the*
25 *plan,*

1 with respect to employees of the debtor, and such
2 amendment is effective prior to the effective date
3 of such employer's plan of reorganization.

4 “(B) *EXCEPTIONS.*—This paragraph shall
5 not apply to any plan amendment if—

6 “(i) the plan, were such amendment to
7 take effect, would have a funded current li-
8 ability percentage (as defined in section
9 412(l)(8)) of 100 percent or more,

10 “(ii) the Secretary determines that
11 such amendment is reasonable and provides
12 for only *de minimis* increases in the liabil-
13 ities of the plan with respect to employees
14 of the debtor,

15 “(iii) such amendment only repeals an
16 amendment described in subsection
17 412(c)(8), or

18 “(iv) such amendment is required as a
19 condition of qualification under this part.

20 “(C) *PLANS TO WHICH THIS PARAGRAPH*
21 *APPLIES.*—This paragraph shall apply only to
22 plans (other than multiemployer plans) covered
23 under section 4021 of the Employee Retirement
24 Income Security Act of 1974.

1 “(D) *EMPLOYER*.—For purposes of this
2 paragraph, the term ‘employer’ means the em-
3 ployer referred to in section 412(c)(11) (without
4 regard to subparagraph (B) thereof).”

5 (c) *EFFECTIVE DATE*.—The amendments made by this
6 section shall apply to plan amendments adopted on or after
7 the date of enactment of this Act.

8 **SEC. 208. SUBSTANTIAL OWNER BENEFITS.**

9 (a) *MODIFICATION OF PHASE-IN OF GUARANTEE*.—
10 Section 4022(b)(5) of the Employee Retirement Income Se-
11 curity Act of 1974 is amended by striking subparagraphs
12 (B) and (C) and inserting the following new subpara-
13 graphs:

14 “(B) For purposes of this title, the term ‘majority
15 owner’ has the same meaning as the term ‘substantial
16 owner’, if ‘50 percent or more’ is substituted for ‘more than
17 10 percent’ wherever such phrase appears in subparagraph
18 (A) of this paragraph.

19 “(C) In the case of a participant who is a majority
20 owner, the amount of benefits guaranteed under this section
21 shall not exceed the product of—

22 “(i) a fraction (not to exceed 1) the numerator
23 of which is the number of years from the later of the
24 effective date or the adoption date of the plan, and the
25 denominator of which is 30, and

1 “(ii) the amount of the majority owner’s month-
2 ly benefits guaranteed under subsection (a) (as lim-
3 ited by paragraph (3) of this subsection).”

4 (b) MODIFICATION OF ALLOCATION OF ASSETS.—

5 (1) Section 4044(a)(4)(B) of such Act (29 U.S.C.
6 1344(a)(4)(B)) is amended by adding “(C)” at the
7 end of “section 4022(b)(5)”.

8 (2) Section 4044(b) of such Act is amended—

9 (A) in paragraph (2), by inserting “(4),”
10 before “(5)”, and by inserting a comma after
11 “(5)”;

12 (B) by redesignating paragraphs (3)
13 through (6) as paragraphs (4) through (7), re-
14 spectively; and

15 (C) by inserting a new paragraph (3) to
16 read as follows:

17 “(3) If assets available for allocation under
18 paragraph (4) of subsection (a) are insufficient to sat-
19 isfy in full the benefits of all individuals who are de-
20 scribed in that paragraph, the assets shall be allocated
21 first to benefits described in subparagraph (A) of that
22 paragraph. Any remaining assets shall then be allo-
23 cated to subparagraph (B). If assets allocated to sub-
24 paragraph (B) are insufficient to satisfy in full the
25 benefits in that subparagraph, the assets shall be allo-

1 *cated pro rata among individuals on the basis of the*
2 *present value (as of the termination date) of their re-*
3 *spective benefits described in that subparagraph.”.*

4 *(c) EFFECTIVE DATE.—The amendments made by this*
5 *section shall be effective for plan terminations under section*
6 *4041(c) of the Employee Retirement Income Security Act*
7 *of 1974 with respect to which notices of intent to terminate*
8 *are provided under section 4041(a)(2) of such Act, or under*
9 *section 4042 of such Act with respect to which proceedings*
10 *are instituted by the corporation, on or after the date of*
11 *enactment of this Act.*

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

13 *(a) IN GENERAL.—Subparagraph (E) of section*
14 *4006(a)(3) of the Employee Retirement Income Security*
15 *Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by strik-*
16 *ing clause (iv), and by redesignating clause (v) as clause*
17 *(iv).*

18 *(b) EFFECTIVE DATE.—The amendments made by this*
19 *section shall be effective on the date of enactment of this*
20 *Act, except that, for plan years beginning on or after July*
21 *1, 1994 and before July 1, 1996, the additional premium*
22 *payable with respect to any participant by reason of this*
23 *amendment shall not exceed the sum of—*

24 *(1) \$53, and*

25 *(2) the product derived by multiplying—*

1 (A) the excess (if any) of—

2 (i) the amount determined under
3 clause (ii) of section 4006(a)(3)(E) of the
4 Employee Retirement Income Security Act
5 of 1974, over

6 (ii) \$53, by

7 (B) the applicable percentage.

8 For purposes of this subsection, the applicable per-
9 centage shall be the percentage specified in the follow-
10 ing table:

<i>For the plan year beginning:</i>		<i>The applica- ble percentage is:</i>
<i>on or after</i>	<i>but before</i>	
<i>July 1, 1994</i>	<i>July 1, 1995</i>	<i>20 percent</i>
<i>July 1, 1995</i>	<i>July 1, 1996</i>	<i>60 percent</i>

11 **TITLE III—PARTICIPANT**
12 **SERVICES**

13 **SEC. 301. DISCLOSURE TO PARTICIPANTS.**

14 (a) *PARTICIPANT NOTICE REQUIREMENT.*—Subtitle A
15 of title IV of the Employee Retirement Income Security Act
16 of 1974 (as amended by section 203 of this Act) is further
17 amended by adding at the end the following new section:

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

19 “(a) *IN GENERAL.*—The plan administrator of a plan
20 subject to the additional premium under section
21 4006(a)(3)(E) shall provide, in a form and manner and
22 at such time as prescribed in regulations of the corporation,

1 notice to plan participants and beneficiaries of the plan's
2 funding status and the limits on the corporation's guaranty
3 should the plan terminate while underfunded. Such notice
4 shall be written in a manner so as to be understood by the
5 average plan participant.

6 “(b) *EXCEPTION.*—Subsection (a) shall not apply to
7 any plan which for the plan year has a funded current li-
8 ability percentage (as defined in section 302(d)(8) without
9 regard to subparagraph (E) thereof) of at least 90 percent.”

10 (b) *CLERICAL AMENDMENT.*—The table of contents
11 contained in section 1 of such Act is amended by inserting
12 after the item relating to section 4010 (as added by section
13 203 of this Act) the following new item:

“Sec. 4011. Notice to participants.”

14 (c) *EFFECTIVE DATE.*—The amendment made by this
15 section shall be effective for plan years beginning after the
16 date of enactment of this Act.

17 **SEC. 302. MISSING PARTICIPANTS.**

18 (a) *IN GENERAL.*—Subtitle C of title IV of the Em-
19 ployee Retirement Income Security Act of 1974 (29 U.S.C.
20 1341 et seq.) is amended by adding at the end the following
21 new section:

22 **“SEC. 4051. MISSING PARTICIPANTS.**

23 “(a) *GENERAL RULE.*—

24 “(1) *PAYMENT TO THE CORPORATION.*—A plan
25 administrator satisfies section 4041(b)(3)(A) in the

1 *case of a missing participant only if the plan admin-*
2 *istrator—*

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

8 *“(B) provides the corporation such informa-*
9 *tion and certifications with respect to such des-*
10 *ignated benefits or irrevocable commitments as*
11 *the corporation shall specify.*

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

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

22 *“(A) in any case in which the plan could*
23 *have distributed the benefit of the missing partic-*
24 *ipant in a single sum without participant or*
25 *spousal consent under section 205(g), the cor-*

1 *poration shall pay the participant or beneficiary*
2 *a single sum benefit equal to the designated bene-*
3 *fit paid the corporation plus interest as specified*
4 *by the corporation, and*

5 *“(B) in any other case, the corporation*
6 *shall pay a benefit based on the designated bene-*
7 *fit and the assumptions prescribed by the cor-*
8 *poration at the time that the corporation re-*
9 *ceived the designated benefit.*

10 *The corporation shall make payments under subpara-*
11 *graph (B) available in the same forms and at the*
12 *same times as a guaranteed benefit under section*
13 *4022 would be available to be paid, except that the*
14 *corporation may make a benefit available in the form*
15 *of a single sum if the plan provided a single sum ben-*
16 *efit (other than a single sum described in subsection*
17 *(b)(2)(A)).*

18 *“(b) DEFINITIONS.—For purposes of this section—*

19 *“(1) MISSING PARTICIPANT.—The term ‘missing*
20 *participant’ means a participant or beneficiary*
21 *under a terminating plan whom the plan adminis-*
22 *trator cannot locate after a diligent search.*

23 *“(2) DESIGNATED BENEFIT.—The term ‘des-*
24 *ignated benefit’ means the single sum benefit the par-*
25 *ticipant would receive—*

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

5 “(B) under the assumptions of the corpora-
6 tion in effect on the date that the designated ben-
7 efit is transferred to the corporation, in the case
8 of a plan that does not pay any single sums
9 other than those described in subparagraph (A);
10 or

11 “(C) under the assumptions of the corpora-
12 tion or of the plan, whichever provides the higher
13 single sum, in the case of a plan that pays a sin-
14 glesum other than those described in subpara-
15 graph (A).

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

22 (b) CONFORMING TITLE IV AMENDMENTS.—

23 (1) AMENDMENT TO SECTION 4003.—Section
24 4003(a) of such Act (29 U.S.C. 1303(a)) is amended
25 in the second sentence by inserting before the period

1 *the following: “and whether section 4051(a) has been*
2 *satisfied”.*

3 (2) *AMENDMENT TO SECTION 4005.—Section*
4 *4005(b)(2)(A) of such Act (29 U.S.C. 1305(b)(2)(A))*
5 *is amended by inserting “or benefits payable under*
6 *section 4051” after “section 4022A”.*

7 (3) *AMENDMENT TO SECTION 4041.—Section*
8 *4041(b)(3)(A)(ii) of such Act (29 U.S.C.*
9 *1341(b)(3)(A)(ii)) is amended by adding at the end*
10 *the following new sentence: “A transfer of assets to the*
11 *corporation in accordance with section 4051 on behalf*
12 *of a missing participant shall satisfy this subpara-*
13 *graph with respect to such participant.”*

14 (c) *CONFORMING ERISA AMENDMENTS.—*

15 (1) *The table of contents contained in section 1*
16 *of the Employee Retirement Income Security Act of*
17 *1974 is amended by inserting after the item related*
18 *to section 4050 (as added by section 202 of this Act)*
19 *the following new item:*

“Sec. 4051. Missing participants.”

20 (2) *Section 206 of such Act (29 U.S.C. 1056) is*
21 *amended by adding at the end the following new sub-*
22 *section:*

23 “(e) *MISSING PARTICIPANTS IN TERMINATED*
24 *PLANS.—In the case of a plan covered by title IV, the plan*
25 *shall provide that, upon termination of the plan, benefits*

1 *of missing participants shall be treated in accordance with*
2 *section 4051.”*

3 *(d) CONFORMING INTERNAL REVENUE CODE AMEND-*
4 *MENTS.—Section 401(a) of the Internal Revenue Code of*
5 *1986, as amended by section 207 of this Act, is further*
6 *amended by inserting after paragraph (33) the following*
7 *new paragraph:*

8 *“(34) BENEFITS OF MISSING PARTICIPANTS ON*
9 *PLAN TERMINATION.—In the case of a plan covered by*
10 *title IV of the Employee Retirement Income Security*
11 *Act of 1974, a trust forming part of such plan shall*
12 *not be treated as failing to constitute a qualified trust*
13 *under this section merely because the pension plan of*
14 *which such trust is a part, upon its termination,*
15 *transfers benefits of missing participants to the Pen-*
16 *sion Benefit Guaranty Corporation in accordance*
17 *with section 4051 of such Act.”*

18 *(e) EFFECTIVE DATE.—The provisions of this section*
19 *shall be effective with respect to distributions that occur in*
20 *plan years commencing after final regulations implement-*
21 *ing these provisions are prescribed by the Pension Benefit*
22 *Guaranty Corporation.*

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

3 (a) *IN GENERAL.*—Section 4022(b)(3) of the Employee
4 Retirement Income Security Act of 1974 (29 U.S.C.
5 1322(b)(3)) is amended by adding at the end the following
6 new sentences: “The maximum guaranteed monthly benefit
7 shall not be reduced solely on account of the age of a partici-
8 pant in the case of a benefit payable by reason of disability,
9 if the participant satisfies the definition of disability under
10 titles II and XVI of the Social Security Act, and the regula-
11 tions thereunder. If a benefit payable by reason of disability
12 is converted to an early or normal retirement benefit for
13 reasons other than a change in the health of the participant,
14 such early or normal retirement benefit shall be treated as
15 a continuation of the benefit payable by reason of disability
16 and this subparagraph shall continue to apply.”

17 (b) *EFFECTIVE DATE.*—The amendment made by this
18 section shall be effective for plan terminations under section
19 4041(c) of the Employee Retirement Income Security Act
20 of 1974 with respect to which notices of intent to terminate
21 are provided under section 4041(a)(2) of such Act, or under
22 section 4042 of such Act with respect to which proceedings
23 are instituted by the corporation, on or after the date of
24 enactment of this Act.

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

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

4 (a) *IN GENERAL.*—Section 404(g)(4) of the Internal
5 Revenue Code of 1986 is amended by striking “the Single
6 Employer Pension Plan Amendments Act of 1986” and in-
7 serting “the Retirement Protection Act of 1994”.

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

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

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

20 (b) *EFFECTIVE DATE.*—The amendment made by this
21 section shall be effective as if included in the Pension Pro-
22 tection Act.

1 **SEC. 403. DISTRESS TERMINATION CRITERIA FOR BANKING**
2 **INSTITUTIONS.**

3 (a) *CLARIFICATION OF DISTRESS CRITERION.*—
4 *Subclause (I) of section 4041(c)(2)(B)(i) of the Employee*
5 *Retirement Income Security Act of 1974 (29 U.S.C.*
6 *1341(c)(2)(B)(i)) is amended by inserting after “under any*
7 *similar” the following: “Federal law or”.*

8 (b) *EFFECTIVE DATE.*—*The amendment made by this*
9 *section shall be effective as if included in the Single-Em-*
10 *ployer Pension Plan Amendments Act of 1986.*

11 **SEC. 404. SINGLE SUM DISTRIBUTIONS.**

12 (a) *AMENDMENTS TO INTERNAL REVENUE CODE OF*
13 *1986 RELATING TO MINIMUM BENEFITS.*—

14 (1) *DETERMINATION OF PRESENT VALUE FOR*
15 *PURPOSES OF RESTRICTIONS ON MANDATORY DIS-*
16 *TRIBUTIONS.*—*Subparagraph (B) of section*
17 *411(a)(11) of the Internal Revenue Code of 1986 is*
18 *amended to read as follows:*

19 “(B) *DETERMINATION OF PRESENT*
20 *VALUE.*—*For purposes of subparagraph (A), the*
21 *present value shall be calculated in accordance*
22 *with section 417(e)(3).”*

23 (2) *DETERMINATION OF PRESENT VALUE FOR*
24 *PURPOSES OF RESTRICTIONS ON CASH-OUTS.*—*Para-*
25 *graph (3) of section 417(e) of such Code is amended*
26 *to read as follows:*

1 “(3) *DETERMINATION OF PRESENT VALUE.*—

2 “(A) *IN GENERAL.*—

3 “(i) *PRESENT VALUE.*—*Except as pro-*
4 *vided in subparagraph (B), for purposes of*
5 *paragraphs (1) and (2), the present value*
6 *shall not be less than the present value cal-*
7 *culated by using the applicable mortality*
8 *table and the applicable interest rate.*

9 “(ii) *DEFINITIONS.*—*For purposes of*
10 *clause (i)—*

11 “(I) *APPLICABLE MORTALITY*
12 *TABLE.*—*The term ‘applicable mortal-*
13 *ity table’ means the table prescribed by*
14 *the Secretary. Such table shall be based*
15 *on the prevailing commissioners’*
16 *standard table (described in section*
17 *807(d)(5)(A)) used to determine re-*
18 *serves for group annuity contracts is-*
19 *sued on the date as of which present*
20 *value is being determined (without re-*
21 *gard to any other subparagraph of sec-*
22 *tion 807(d)(5)).*

23 “(II) *APPLICABLE INTEREST*
24 *RATE.*—*The term ‘applicable interest*
25 *rate’ means the annual rate of interest*

1 on 30-year Treasury securities for the
2 month before the date of distribution or
3 such other time as the Secretary may
4 by regulations prescribe.

5 “(B) *EXCEPTION.*—In the case of a dis-
6 tribution from a plan that was adopted and in
7 effect before the date of the enactment of the Re-
8 tirement Protection Act of 1994, the present
9 value of any distribution made before the earlier
10 of—

11 “(i) the later of the date a plan amend-
12 ment applying subparagraph (A) is adopted
13 or made effective, or

14 “(ii) the first day of the first plan year
15 beginning after December 31, 1999,

16 shall be calculated, for purposes of paragraphs
17 (1) and (2), using the interest rate determined
18 under the regulations of the Pension Benefit
19 Guaranty Corporation for determining the
20 present value of a lump sum distribution on
21 plan termination that were in effect on Septem-
22 ber 1, 1993, and using the provisions of the plan
23 as in effect on the day before such date of enact-
24 ment; but only if such provisions of the plan met

1 *the requirements of section 417(e)(3) as in effect*
2 *on the day before such date of enactment.”*

3 **(b) AMENDMENTS TO INTERNAL REVENUE CODE OF**
4 **1986 RELATING TO MAXIMUM BENEFITS.—Subparagraph**
5 **(E) of section 415(b)(2) of such Code is amended—**

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

8 **(2) by striking clause (i) and inserting the fol-**
9 **lowing new clauses:**

10 *“(i) Except as provided in clause (ii),*
11 *for purposes of adjusting any benefit or lim-*
12 *itation under subparagraph (B) or (C), the*
13 *interest rate assumption shall not be less*
14 *than the greater of 5 percent or the rate*
15 *specified in the plan.*

16 *“(ii) For purposes of adjusting the ben-*
17 *efit or limitation of any form of benefit sub-*
18 *ject to section 417(e)(3), the applicable in-*
19 *terest rate (as defined in section 417(e)(3))*
20 *shall be substituted for ‘5 percent’ in clause*
21 *(i).”, and*

22 **(3) by adding at the end the following new**
23 **clause:**

24 *“(v) For purposes of adjusting any*
25 *benefit or limitation under subparagraph*

1 (B), (C), or (D), the mortality table used
2 shall be the table prescribed by the Sec-
3 retary. Such table shall be based on the pre-
4 vailing commissioners' standard table (de-
5 scribed in section 807(d)(5)(A)) used to de-
6 termine reserves for group annuity con-
7 tracts issued on the date the adjustment is
8 being made (without regard to any other
9 subparagraph of section 807(d)(5)).”

10 (c) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME
11 SECURITY ACT OF 1974.—

12 (1) DETERMINATION OF PRESENT VALUE FOR
13 PURPOSES OF RESTRICTIONS ON MANDATORY DIS-
14 TRIBUTIONS.—Section 203(e)(2) of the Employee Re-
15 tirement Income Security Act of 1974 (29 U.S.C.
16 1053(e)(2)) is amended to read as follows:

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

19 (2) DETERMINATION OF PRESENT VALUE FOR
20 PURPOSES OF RESTRICTIONS ON CASH-OUTS.—Section
21 205(g)(3) of such Act (29 U.S.C. 1055(g)(3)) is
22 amended to read as follows:

23 “(3) DETERMINATION OF PRESENT VALUE.—

24 “(A) IN GENERAL.—

1 “(i) *PRESENT VALUE.*—*Except as pro-*
2 *vided in subparagraph (B), for purposes of*
3 *paragraphs (1) and (2), the present value*
4 *shall not be less than the present value cal-*
5 *culated by using the applicable mortality*
6 *table and the applicable interest rate.*

7 “(ii) *DEFINITIONS.*—*For purposes of*
8 *clause (i)—*

9 “(I) *APPLICABLE MORTALITY*
10 *TABLE.*—*The term ‘applicable mortal-*
11 *ity table’ means the table prescribed by*
12 *the Secretary of the Treasury. Such*
13 *table shall be based on the prevailing*
14 *commissioners’ standard table (de-*
15 *scribed in section 807(d)(5)(A) of the*
16 *Internal Revenue Code of 1986) used to*
17 *determine reserves for group annuity*
18 *contracts issued on the date as of*
19 *which present value is being deter-*
20 *mined (without regard to any other*
21 *subparagraph of section 807(d)(5) of*
22 *such Code).*

23 “(II) *APPLICABLE INTEREST*
24 *RATE.*—*The term ‘applicable interest*
25 *rate’ means the annual rate of interest*

1 on 30-year Treasury securities for the
2 month before the date of distribution or
3 such other time as the Secretary of the
4 Treasury may by regulations prescribe.

5 “(B) *EXCEPTION.*—In the case of a dis-
6 tribution from a plan that was adopted and in
7 effect prior to the date of the enactment of the
8 Retirement Protection Act of 1994, the present
9 value of any distribution made before the earlier
10 of—

11 “(i) the later of when a plan amend-
12 ment applying subparagraph (A) is adopted
13 or made effective, or

14 “(ii) the first day of the first plan year
15 beginning after December 31, 1999,

16 shall be calculated, for purposes of paragraphs
17 (1) and (2), using the interest rate determined
18 under the regulations of the Pension Benefit
19 Guaranty Corporation for determining the
20 present value of a lump sum distribution on
21 plan termination that were in effect on Septem-
22 ber 1, 1993, and using the provisions of the plan
23 as in effect on the day before such date of enact-
24 ment; but only if such provisions of the plan met

1 *the requirements of section 205(g)(3) as in effect*
2 *on the day before such date of enactment.”*

3 *(d) EFFECTIVE DATE.—*

4 *(1) IN GENERAL.—The amendments made by*
5 *this section shall apply to plan years and limitation*
6 *years beginning after December 31, 1994; except that*
7 *an employer may elect to treat the amendments made*
8 *by this section as being effective on or after the date*
9 *of enactment.*

10 *(2) NO REDUCTION IN ACCRUED BENEFITS.—A*
11 *participant’s accrued benefit shall not be considered*
12 *to be reduced in violation of section 411(d)(6) of the*
13 *Internal Revenue Code of 1986 or section 204(g) of*
14 *the Employee Retirement Income Security Act of*
15 *1974 merely because (A) the benefit is determined in*
16 *accordance with section 417(e)(3)(A) of such Code, as*
17 *amended by this Act, or section 205(g)(3) of the Em-*
18 *ployee Retirement Income Security Act of 1974, as*
19 *amended by this Act, or (B) the plan applies section*
20 *415(b)(2)(E) of such Code, as amended by this Act.*

21 *(3) SECTION 415.—*

22 *(A) NO REDUCTION REQUIRED.—An ac-*
23 *crued benefit shall not be required to be reduced*
24 *below the accrued benefit as of the last day of the*
25 *last plan year beginning before January 1, 1995,*

1 *merely because of the amendments made by sub-*
2 *section (b).*

3 (B) *TIMING OF PLAN AMENDMENT.*—A plan
4 that operates in accordance with the amend-
5 ments made by subsection (b) shall not be treated
6 as failing to satisfy section 401(a) of the Inter-
7 nal Revenue Code of 1986 or as not being oper-
8 ated in accordance with the provisions of the
9 plan until such date as the Secretary of the
10 Treasury provides merely because the plan has
11 not been amended to include the amendments
12 made by subsection (b).

13 **SEC. 405. ADJUSTMENTS TO LIEN FOR MISSED MINIMUM**
14 **FUNDING CONTRIBUTIONS.**

15 (a) *AMENDMENTS TO THE INTERNAL REVENUE CODE*
16 *OF 1986.*—

17 (1) *CLARIFICATION OF APPLICABILITY OF PROVI-*
18 *SION.*—Paragraph (2) of section 412(n) of the Inter-
19 nal Revenue Code of 1986 is amended by adding at
20 the end the following new sentence: “This subsection
21 shall not apply to any plan to which section 4021 of
22 the Employee Retirement Income Security Act of
23 1974 does not apply (as such section is in effect on
24 the date of the enactment of the Retirement Protection
25 Act of 1994).”.

1 (2) *REPEAL OF \$1,000,000 OFFSET.*—Paragraph
2 (3) of section 412(n) of such Code is amended to read
3 as follows:

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

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

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

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

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

18 (1) *CLARIFICATION OF APPLICABILITY OF PROVI-*
19 *SION.*—Section 302(f)(1) of the Employee Retirement
20 *Income Security Act of 1974 (29 U.S.C. 1082(f)(1))*
21 *is amended by striking “to which this section applies”*
22 *and inserting “covered under section 4021 of this*
23 *Act”.*

1 (2) *REPEAL OF \$1,000,000 OFFSET.*—Paragraph
2 (3) of section 302(f) of such Act is amended to read
3 as follows:

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

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

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

13 (3) *REPEAL OF 60-DAY DELAY.*—Section
14 302(f)(4)(B) of such Act is amended by striking “60th
15 day following the”.

16 (c) *EFFECTIVE DATE.*—The amendments made by this
17 section shall be effective for installments and other pay-
18 ments required under section 412 of the Internal Revenue
19 Code of 1986 or under part 3 of subtitle B of the Employee
20 Retirement Income Security Act of 1974 that become due
21 on or after the date of enactment.

1 **SEC. 406. ROUNDING RULES FOR COST-OF-LIVING ADJUST-**
2 **MENTS.**

3 (a) *COST-OF-LIVING ADJUSTMENT FOR COMPENSA-*
4 *TION LIMIT.*—Section 401(a)(17)(B) of the Internal Reve-
5 *nue Code of 1986 is revised to read as follows:*

6 “(B) *COST-OF-LIVING ADJUSTMENT.*—The
7 *Secretary shall adjust annually the \$150,000*
8 *amount in subparagraph (A) for increases in the*
9 *cost-of-living at the same time and in the same*
10 *manner as adjustments under section 415(d); ex-*
11 *cept that the base period shall be the calendar*
12 *quarter beginning October 1, 1993, and any in-*
13 *crease which is not a multiple of \$10,000 shall*
14 *be rounded to the next lowest multiple of*
15 *\$10,000.”*

16 (b) *COST-OF-LIVING ADJUSTMENT FOR MAXIMUM DE-*
17 *FINED BENEFIT AMOUNT AND MAXIMUM ANNUAL ADDI-*
18 *TION.*—

19 (1) *IN GENERAL.*—Section 415(d) of such Code is
20 *amended to read as follows:*

21 “(d) *COST-OF-LIVING ADJUSTMENTS.*—

22 “(1) *IN GENERAL.*—The Secretary shall adjust
23 *annually—*

24 “(A) *the \$90,000 amount in subsection*
25 *(b)(1)(A),*

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

4 “(C) the \$30,000 amount in subsection
5 (c)(1)(A),

6 for increases in the cost-of-living in accordance with
7 regulations prescribed by the Secretary.

8 “(2) METHOD.—The regulations prescribed
9 under paragraph (1) shall provide for—

10 “(A) an adjustment with respect to any cal-
11 endar year based on the increase in the applica-
12 ble index for the calendar quarter ending Sep-
13 tember 30 of the preceding calendar year over
14 such index for the base period, and

15 “(B) adjustment procedures which are simi-
16 lar to the procedures used to adjust benefit
17 amounts under section 215(i)(2)(A) of the Social
18 Security Act.

19 “(3) BASE PERIOD.—For purposes of paragraph
20 (2)—

21 “(A) \$90,000 AMOUNT.—The base period
22 taken into account for purposes of paragraph
23 (1)(A) is the calendar quarter beginning October
24 1, 1986.

1 “(B) *SEPARATIONS AFTER DECEMBER 31,*
2 *1994.—The base period taken into account for*
3 *purposes of paragraph (1)(B) with respect to in-*
4 *dividuals separating from service with the em-*
5 *ployer after December 31, 1994, is the calendar*
6 *quarter beginning July 1 of the calendar year*
7 *preceding the calendar year in which such sepa-*
8 *ration occurs.*

9 “(C) *SEPARATIONS BEFORE JANUARY 1,*
10 *1995.—The base period taken into account for*
11 *purposes of paragraph (1)(B) with respect to in-*
12 *dividuals separating from service with the em-*
13 *ployer before January 1, 1995, is the calendar*
14 *quarter beginning October 1 of the calendar year*
15 *preceding the calendar year in which such sepa-*
16 *ration occurs.*

17 “(D) *\$30,000 AMOUNT.—The base period*
18 *taken into account for purposes of paragraph*
19 *(1)(C) is the calendar quarter beginning October*
20 *1, 1993.”*

21 “(4) *ROUNDING.—Any increase under subpara-*
22 *graph (A) or (C) of paragraph (1) which is not a*
23 *multiple of \$5,000 shall be rounded to the next lowest*
24 *multiple of \$5,000.”*

1 (2) *CONFORMING AMENDMENT.*—Section
2 415(c)(1)(A) of such Code is amended by striking
3 “(or, if greater, $\frac{1}{4}$ of the dollar limitation in effect
4 under subsection (b)(1)(A))”.

5 (c) *COST-OF-LIVING ADJUSTMENT FOR MAXIMUM SAL-*
6 *ARY DEFERRAL.*—Section 402(g)(5) of such Code is amend-
7 ed by inserting before the period “; except that any increase
8 under this paragraph which is not a multiple of \$500 shall
9 be rounded to the next lowest multiple of \$500”.

10 (d) *COST-OF-LIVING ADJUSTMENT FOR ELIGIBILITY*
11 *FOR SIMPLIFIED EMPLOYEE PENSIONS.*—Section 408(k)(8)
12 of such Code is amended by inserting before the period “;
13 except that any increase in the \$300 amount which is not
14 a multiple of \$50 shall be rounded to the next lowest mul-
15 tiple of \$50”.

16 (e) *EFFECTIVE DATE.*—The amendments made by this
17 section shall apply to years beginning after December 31,
18 1994.

19 **SEC. 407. FUNDING OF RESTORED PLANS.**

20 Any changes made by this Act to section 412 of the
21 Internal Revenue Code of 1986 or to part 3 of subtitle B
22 of title I of the Employee Retirement Income Security Act
23 of 1974 shall not apply to a plan which is, on the date
24 of enactment of this Act, subject to a restoration payment
25 schedule order issued by the Pension Benefit Guaranty Cor-

1 *poration that meets the requirements of section 1.412(c)(1)–*
 2 *3 of the Treasury Regulations.*

3 **SEC. 408. STUDY OF FUNDING STATUS OF FEDERAL, STATE,**
 4 **AND LOCAL GOVERNMENT PENSION PLANS.**

5 *(a) IN GENERAL.—The Comptroller General shall con-*
 6 *duct a study of the underfunding of Federal, State, and*
 7 *local government pension plans. Such study shall address*
 8 *the causes and implications of such underfunding, as well*
 9 *as the feasibility of requiring such plans to comply with*
 10 *funding, reporting, and disclosure requirements imposed by*
 11 *Federal law on private pension plans.*

12 *(b) REPORT.—The report of such study shall be sub-*
 13 *mitted not later than April 1, 1995, to the Committee on*
 14 *Ways and Means of the House of Representatives and the*
 15 *Committee on Finance of the Senate.*

16 **TITLE V—EFFECTIVE DATES**

17 **SEC. 501. EFFECTIVE DATES.**

18 *Except as otherwise provided in this Act, the amend-*
 19 *ments made by this Act shall be effective on the date of en-*
 20 *actment of this Act.*

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

22 **(a) SHORT TITLE.—This Act may be cited**
 23 **as the “Retirement Protection Act of 1994”.**

24 **(b) TABLE OF CONTENTS.—**

Sec. 1. Short title and table of contents.

TITLE I—PENSION PLAN FUNDING

**SUBTITLE A—AMENDMENTS TO THE EMPLOYEE RETIREMENT
INCOME SECURITY ACT OF 1974**

- Sec. 101. Minimum funding requirements.**
- Sec. 102. Limitation on changes in current liability assumptions.**
- Sec. 103. Anticipation of bargained benefit increases.**
- Sec. 104. Modification of quarterly contribution requirement.**

**SUBTITLE B—AMENDMENTS TO THE INTERNAL REVENUE CODE OF
1986**

- Sec. 121. Minimum funding requirements.**
- Sec. 122. Limitation on changes in current liability assumptions.**
- Sec. 123. Anticipation of bargained benefit increases.**
- Sec. 124. Modification of quarterly contribution requirement.**
- Sec. 125. Exceptions to excise tax on nondeductible contributions.**

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

- Sec. 201. Reportable events.**
- Sec. 202. Alternative to involuntary termination.**
- Sec. 203. Certain information required to be furnished to pbgc.**
- Sec. 204. Liability upon liquidation of contributing sponsor or controlled group member if plan remains ongoing.**
- Sec. 205. Enforcement of minimum funding requirements.**
- Sec. 206. Remedies for noncompliance with requirements for standard termination.**
- Sec. 207. Prohibition on benefit increases where plan sponsor is in bankruptcy.**
- Sec. 208. Substantial owner benefits.**
- Sec. 209. Phase-out of variable rate premium cap.**

TITLE III—PARTICIPANT SERVICES

- Sec. 301. Disclosure to participants.**
- Sec. 302. Missing participants.**
- Sec. 303. Modification of maximum guarantee for disability benefits.**

TITLE IV—MISCELLANEOUS AMENDMENTS

- Sec. 401. ERISA citation.**
- Sec. 402. Definition of contributing sponsor.**
- Sec. 403. Technical corrections.**
- Sec. 404. Distress termination criteria for banking institutions.**
- Sec. 405. Single sum distributions.**
- Sec. 406. Adjustments to lien for missed minimum funding contributions.**
- Sec. 407. Rounding rules for cost-of-living adjustments.**
- Sec. 408. Funding of restored plans.**
- Sec. 409. Study of funding status of federal, State, and local government pension plans.**

TITLE V—EFFECTIVE DATES AND RELATED RULES

Sec. 501. Effective dates.

Sec. 502. Delay in changes to prevailing commissioners' table.

1 **TITLE I—PENSION PLAN**
2 **FUNDING**
3 **Subtitle A—Amendments to the**
4 **Employee Retirement Income**
5 **Security Act of 1974**

6 **SEC. 101. MINIMUM FUNDING REQUIREMENTS.**

7 **(a) AMENDMENTS TO ADDITIONAL FUNDING**
8 **REQUIREMENTS FOR SINGLE-EMPLOYER PLANS.—**

9 **(1) LIMITATION OF ADDITIONAL FUNDING**
10 **REQUIREMENT TO PLANS HAVING A FUNDED**
11 **CURRENT LIABILITY PERCENTAGE OF LESS**
12 **THAN 90 PERCENT.—Paragraph (1) of sec-**
13 **tion 302(d) of the Employee Retirement**
14 **Income Security Act of 1974 (29 U.S.C.**
15 **1082(d)) is amended by striking “which**
16 **has an unfunded current liability” and**
17 **inserting “which has a funded current li-**
18 **ability percentage of less than 90 percent**
19 **(determined without regard to paragraph**
20 **(8)(E))”.**

21 **(2) RELATIONSHIP OF ADDITIONAL FUND-**
22 **ING REQUIREMENT TO FUNDING STANDARD**
23 **ACCOUNT CHARGES AND CREDITS.—**

1 **(A) Clause (ii) of section**
2 **302(d)(1)(A) of such Act is amended to**
3 **read as follows:**

4 **“(ii)(I) for plan years begin-**
5 **ning prior to January 1, 2000, the**
6 **sum of the charges under sub-**
7 **section (b)(2) (other than 5 per-**
8 **cent of the charges established**
9 **prior to January 1, 1995, under**
10 **clauses (iv) and (v) of subsection**
11 **(b)(2)(B)), reduced by the sum of**
12 **the credits under subsection**
13 **(b)(3) (other than 5 percent of the**
14 **credits established prior to Janu-**
15 **ary 1, 1995, under clauses (ii) and**
16 **(iii) of subsection (b)(3)(B)), or**

17 **“(II) for plan years beginning**
18 **after December 31, 1999, the sum**
19 **of the charges under subsection**
20 **(b)(2), reduced by the sum of the**
21 **credits under subparagraph (B) of**
22 **subsection (b)(3), plus”.**

23 **(B) The last sentence in section**
24 **302(d)(1) of such Act is amended to**
25 **read as follows:**

1 **“Such increase shall not exceed the**
2 **amount which, after taking into account**
3 **charges (other than the additional charge**
4 **under this subsection) and credits under**
5 **subsection (b), is necessary to increase**
6 **the funded current liability percentage**
7 **(taking into account the expected in-**
8 **crease in current liability due to benefits**
9 **accruing during the plan year) to 100 per-**
10 **cent.”**

11 **(3) AMENDMENT TO DEFICIT REDUCTION**
12 **CONTRIBUTION.—Paragraph (2) of section**
13 **302(d) of such Act is amended—**

14 **(A) by striking “plus” at the end**
15 **of subparagraph (A);**

16 **(B) by striking the period at the**
17 **end of subparagraph (B) and insert-**
18 **ing “, and”; and**

19 **(C) by adding at the end the fol-**
20 **lowing new subparagraph:**

21 **“(C) the expected increase in cur-**
22 **rent liability due to benefits accruing**
23 **during the plan year.”**

24 **(4) INCREASE IN UNFUNDED OLD LIABIL-**
25 **ITY.—**

1 **(A) Paragraph (3) of section**
2 **302(d) of such Act is amended by add-**
3 **ing at the end the following new sub-**
4 **paragraphs:**

5 **“(D) SPECIAL RULE FOR REQUIRED**
6 **CHANGES IN ACTUARIAL ASSUMPTIONS.—**

7 **“(i) IN GENERAL.—The un-**
8 **funded old liability amount with**
9 **respect to any plan for any plan**
10 **year shall be increased by the**
11 **amount necessary to amortize the**
12 **amount of additional unfunded**
13 **old liability under the plan in**
14 **equal annual installments over a**
15 **period of 12 plan years (beginning**
16 **with the first plan year beginning**
17 **after December 31, 1994).**

18 **“(ii) ADDITIONAL UNFUNDED OLD**
19 **LIABILITY.—For purposes of clause**
20 **(i), the term ‘additional unfunded**
21 **old liability’ means the amount (if**
22 **any) by which—**

23 **“(I) the current liability of**
24 **the plan as of the beginning**
25 **of the first plan year begin-**

1 **ning after December 31, 1994,**
2 **valued using the assumptions**
3 **required by paragraph (7)(C)**
4 **as in effect for plan years be-**
5 **ginning after December 31,**
6 **1994, exceeds**

7 **“(II) the current liability**
8 **of the plan as of the begin-**
9 **ning of such first plan year,**
10 **valued using the same as-**
11 **sumptions used under**
12 **subclause (I) (other than the**
13 **assumptions required by**
14 **paragraph (7)(C)), using the**
15 **prior interest rate, and using**
16 **such mortality assumptions as**
17 **were used to determine cur-**
18 **rent liability for the first plan**
19 **year beginning after Decem-**
20 **ber 31, 1992.**

21 **“(iii) PRIOR INTEREST RATE.—**
22 **For purposes of clause (ii), the**
23 **term ‘prior interest rate’ means**
24 **the rate of interest that is the**
25 **same percentage of the weighted**

1 **average under subsection**
2 **(b)(5)(B)(ii)(I) for the first plan**
3 **year beginning after December**
4 **31, 1994, as the rate of interest**
5 **used by the plan to determine**
6 **current liability for the first plan**
7 **year beginning after December**
8 **31, 1992, is of the weighted aver-**
9 **age under subsection**
10 **(b)(5)(B)(ii)(I) for such first plan**
11 **year beginning after December**
12 **31, 1992.**

13 **“(E) OPTIONAL RULE FOR ADDI-**
14 **TIONAL UNFUNDED OLD LIABILITY.—**

15 **“(i) IN GENERAL.—If an election**
16 **is made under clause (ii), the**
17 **term ‘additional unfunded old li-**
18 **ability’ means (in lieu of the addi-**
19 **tional unfunded old liability de-**
20 **scribed in clause (ii) of subpara-**
21 **graph (D)), the amount (if any) by**
22 **which—**

23 **“(I) the unfunded current**
24 **liability of the plan as of the**
25 **beginning of the first plan**

1 **year beginning after Decem-**
2 **ber 31, 1994, valued using the**
3 **assumptions required by**
4 **paragraph (7)(C) as in effect**
5 **for plan years beginning after**
6 **December 31, 1994, exceeds**

7 **“(II) the unamortized por-**
8 **tion of the unfunded old li-**
9 **ability under the plan as of**
10 **the beginning of the first plan**
11 **year beginning after Decem-**
12 **ber 31, 1994.**

13 **“(ii) ELECTION.—**

14 **“(I) An employer may ir-**
15 **revocably elect, at such time**
16 **and in such manner as shall**
17 **be prescribed by the Sec-**
18 **retary of the Treasury, to**
19 **apply the provisions of this**
20 **subparagraph as of the begin-**
21 **ning of the first plan year be-**
22 **ginning after December 31,**
23 **1994.**

24 **“(II) If an election is made**
25 **under this clause, the in-**

1 crease under paragraph (1)
2 for any plan year beginning
3 after December 31, 1994, and
4 before January 1, 2002, shall
5 not be less than the increase
6 that would be required under
7 paragraph (1) if the provi-
8 sions of this title as in effect
9 for plan years beginning be-
10 fore January 1, 1995, had re-
11 mained in effect.”

12 **(5) APPLICABLE PERCENTAGE FOR DE-**
13 **TERMINING UNFUNDED NEW LIABILITY**
14 **AMOUNT.—Subparagraph (C) of section**
15 **302(d)(4) of such Act is amended—**

16 **(A) by striking “.25” and inserting**
17 **“.40”, and**

18 **(B) by striking “35” and inserting**
19 **“60”.**

20 **(6) UNPREDICTABLE CONTINGENT EVENT**
21 **AMOUNT.—**

22 **(A) Subparagraph (A) of section**
23 **302(d)(5) of such Act is amended—**

1 **(i) by striking “greater of” and**
2 **inserting “greatest of” before**
3 **clause (i);**

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

6 **(iii) by striking the period at**
7 **the end of clause (ii) and insert-**
8 **ing “, or”; and**

9 **(iv) by adding after clause (ii)**
10 **the following new clause:**

11 **“(iii) the additional amount**
12 **that would be determined under**
13 **paragraph (4)(A) if the unpredict-**
14 **able contingent event benefit li-**
15 **abilities were included in un-**
16 **funded new liability notwith-**
17 **standing paragraph (4)(B)(ii).”**

18 **(B) Paragraph (5) of section**
19 **302(d) of such Act is amended by add-**
20 **ing at the end the following new sub-**
21 **paragraph:**

22 **“(E) LIMITATION.—The present**
23 **value of the amounts described in**
24 **subparagraph (A) with respect to any**
25 **one event shall not exceed the unpre-**

1 **dictable contingent event benefit li-**
2 **abilities attributable to that event.”**

3 **(C) Clause (ii) of section**
4 **302(e)(4)(D) of such Act is amended—**

5 **(i) by striking “greater of” and**
6 **inserting “greatest of” before**
7 **subclause (I);**

8 **(ii) by striking “or” at the end**
9 **of subclause (I);**

10 **(iii) by striking the period at**
11 **the end of subclause (II) and in-**
12 **serting “, or”; and**

13 **(iv) by adding after subclause**
14 **(II) the following new clause:**

15 **“(III) 25 percent of the**
16 **amount determined under**
17 **subsection (d)(5)(A)(iii) for the**
18 **plan year.”**

19 **(7) REQUIRED INTEREST RATE AND MOR-**
20 **TALITY ASSUMPTIONS FOR DETERMINING CUR-**
21 **RENT LIABILITY.—Subparagraph (C) of sec-**
22 **tion 302(d)(7) of such Act is amended to**
23 **read as follows:**

24 **“(C) INTEREST RATE AND MORTALITY**
25 **ASSUMPTIONS USED.—Effective for plan**

1 **years beginning after December 31,**
2 **1994—**

3 “(i) the rate of interest used to
4 determine current liability under
5 this subsection shall be the rate
6 of interest used under subsection
7 (b)(5), except that the highest rate
8 in the permissible range under
9 subparagraph (B)(ii) thereof shall
10 not exceed 105 percent of the
11 weighted average referred to in
12 such subparagraph, and

13 “(ii) the mortality table used
14 to determine current liability
15 under this subsection shall be the
16 table prescribed by the Secretary
17 of the Treasury.

18 **The table prescribed under clause (ii)**
19 **shall be based on the prevailing com-**
20 **missioners’ standard table (described**
21 **in section 807(d)(5)(A) of the Internal**
22 **Revenue Code of 1986) used to deter-**
23 **mine reserves for group annuity con-**
24 **tracts issued on the date as of which**
25 **current liability is determined (with-**

1 out regard to any other subparagraph
2 of section 807(d)(5) of such Code). The
3 Secretary shall prescribe separate ta-
4 bles, which may be used instead of
5 the table described in the preceding
6 sentence, to calculate mortality rates
7 for participants who satisfy the defi-
8 nition of disability under titles II and
9 XVI of the Social Security Act and the
10 regulations thereunder.”

11 **(8) TRANSITION RULE.—Section 302(d)**
12 **of such Act is amended by adding at the**
13 **end the following new paragraph:**

14 **“(9) PHASE-IN OF INCREASES IN FUNDING**
15 **REQUIRED BY RETIREMENT PROTECTION ACT**
16 **OF 1994.—**

17 **“(A) IN GENERAL.—For any appli-**
18 **cable plan year, at the election of the**
19 **employer, the increase under para-**
20 **graph (1) shall not exceed the greater**
21 **of—**

22 **“(i) the increase that would be**
23 **required under paragraph (1) if**
24 **the provisions of this title as in**
25 **effect for plan years beginning be-**

1 **fore January 1, 1995, had re-**
2 **mained in effect, or**

3 **“(ii) the amount which, after**
4 **taking into account charges**
5 **(other than the additional charge**
6 **under this subsection) and credits**
7 **under subsection (b), is necessary**
8 **to increase the funded current li-**
9 **ability percentage (taking into ac-**
10 **count the expected increase in**
11 **current liability due to benefits**
12 **accruing during the plan year) for**
13 **the applicable plan year to a per-**
14 **centage equal to the sum of the**
15 **initial funded current liability**
16 **percentage of the plan plus the**
17 **applicable number of percentage**
18 **points for such applicable plan**
19 **year.**

20 **“(B) APPLICABLE NUMBER OF PER-**
21 **CENTAGE POINTS.—**

22 **“(i) INITIAL FUNDED CURRENT**
23 **LIABILITY PERCENTAGE OF 75 PER-**
24 **CENT OR LESS.—Except as pro-**
25 **vided in clause (ii), for plans with**

1 **an initial funded current liability**
 2 **percentage of 75 percent or less,**
 3 **the applicable number of percent-**
 4 **age points for the applicable plan**
 5 **year is as follows:**

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

6 **“(ii) OTHER CASES.—In the case**
 7 **of a plan to which this clause ap-**
 8 **plies, the applicable number of**
 9 **percentage points for any such**
 10 **applicable plan year is the sum**
 11 **of—**

12 **“(I) 2 percentage points;**

13 **“(II) the applicable num-**
 14 **ber of percentage points (if**
 15 **any) under this clause for the**
 16 **preceding applicable plan**
 17 **year;**

18 **“(III) the product of .10**
 19 **multiplied by the excess (if**
 20 **any) of (a) 85 percentage**
 21 **points over (b) the sum of the**

1 **initial funded current liability**
2 **percentage and the number**
3 **determined under subclause**
4 **(II);**

5 **“(IV) for applicable plan**
6 **years beginning in 2000, 1 per-**
7 **centage point; and**

8 **“(V) for applicable plan**
9 **years beginning in 2001, 2 per-**
10 **centage points.**

11 **“(iii) PLANS TO WHICH CLAUSE**
12 **(ii) APPLIES.—**

13 **“(I) IN GENERAL.—Clause**
14 **(ii) shall apply to a plan for**
15 **an applicable plan year if the**
16 **initial funded current liability**
17 **percentage of such plan is**
18 **more than 75 percent.**

19 **“(II) PLANS INITIALLY**
20 **UNDER CLAUSE (i).—In the case**
21 **of a plan which (but for this**
22 **subclause) has an initial fund-**
23 **ed current liability percent-**
24 **age of 75 percent or less,**
25 **clause (ii) (and not clause (i))**

1 shall apply to such plan with
2 respect to applicable plan
3 years beginning after the first
4 applicable plan year for
5 which the sum of the initial
6 funded current liability per-
7 centage and the applicable
8 number of percentage points
9 (determined under clause (i))
10 exceeds 75 percent. For pur-
11 poses of applying clause (ii) to
12 such a plan, the initial funded
13 current liability percentage of
14 such plan shall be treated as
15 being the sum referred to in
16 the preceding sentence.

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

19 **“(i) The term ‘applicable plan**
20 **year’ means a plan year begin-**
21 **ning after December 31, 1994, and**
22 **before January 1, 2002.**

23 **“(ii) The term ‘initial funded**
24 **current liability percentage’**
25 **means the funded current liabil-**

1 **ity percentage as of the first day**
2 **of the first plan year beginning**
3 **after December 31, 1994.”**

4 **(9) LIQUIDITY REQUIREMENT.—**

5 **(A) Section 302(e) of such Act is**
6 **amended by redesignating paragraph**
7 **(5) as paragraph (6) and by inserting**
8 **after paragraph (4) the following new**
9 **paragraph:**

10 **“(5) LIQUIDITY REQUIREMENT.—**

11 **“(A) IN GENERAL.—A plan to which**
12 **this paragraph applies shall be treat-**
13 **ed as failing to pay the full amount of**
14 **any required installment to the ex-**
15 **tent that the value of the liquid assets**
16 **paid in such installment is less than**
17 **the liquidity shortfall (whether or not**
18 **such liquidity shortfall exceeds the**
19 **amount of such installment required**
20 **to be paid but for this paragraph).**

21 **“(B) PLANS TO WHICH PARAGRAPH**
22 **APPLIES.—This paragraph shall apply**
23 **to a defined benefit plan to which**
24 **subsection (d) applies and which—**

1 “(i) is required to pay install-
2 ments under this subsection for a
3 plan year, and

4 “(ii) has a liquidity shortfall
5 for any quarter during such plan
6 year.

7 “(C) PERIOD OF UNDERPAYMENT.—
8 For purposes of paragraph (1), any
9 portion of an installment that is
10 treated as not paid under subpara-
11 graph (A) shall continue to be treated
12 as unpaid until the close of the quar-
13 ter in which the due date for such in-
14 stallment occurs.

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

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

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

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

15 **“(ii) BASE AMOUNT.—**

16 **“(I) IN GENERAL.—The term**
17 **‘base amount’ means, with re-**
18 **spect to any quarter, an**
19 **amount equal to 3 times the**
20 **sum of the adjusted disburse-**
21 **ments from the plan for the 12**
22 **months ending on the last day**
23 **of such quarter.**

24 **“(II) SPECIAL RULE.—If the**
25 **amount determined under**

1 **clause (i) exceeds an amount**
2 **equal to 2 times the sum of**
3 **the adjusted disbursements**
4 **from the plan for the 36**
5 **months ending on the last day**
6 **of the quarter and an enrolled**
7 **actuary certifies to the Sec-**
8 **retary of the Treasury that**
9 **such excess is the result of**
10 **nonrecurring circumstances,**
11 **the base amount with respect**
12 **to such quarter shall be deter-**
13 **mined without regard to**
14 **amounts related to those non-**
15 **recurring circumstances.**

16 **“(iii) DISBURSEMENTS FROM THE**
17 **PLAN.—The term ‘disbursements**
18 **from the plan’ means all disburse-**
19 **ments from the trust, including**
20 **purchases of annuities, payments**
21 **of single sums and other benefits,**
22 **and administrative expenses.**

23 **“(iv) ADJUSTED DISBURSE-**
24 **MENTS.—The term ‘adjusted dis-**
25 **bursements’ means disbursements**

1 from the plan reduced by the
2 product of—

3 “(I) the plan’s funded cur-
4 rent liability percentage (as
5 defined in subsection (d)(8))
6 for the plan year, and

7 “(II) the sum of the pur-
8 chases of annuities, payments
9 of single sums, and such other
10 disbursements as the Sec-
11 retary of the Treasury shall
12 provide in regulations.

13 “(v) LIQUID ASSETS.—The term
14 ‘liquid assets’ means cash, mar-
15 ketable securities and such other
16 assets as specified by the Sec-
17 retary of the Treasury in regula-
18 tions.

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

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

5 **(B) LIMITATION ON DISTRIBUTIONS**
6 **OTHER THAN LIFE ANNUITIES PAID BY**
7 **THE PLAN.—**

8 **(i) Section 206 of the Em-**
9 **ployee Retirement Income Secu-**
10 **rity Act of 1974 (29 U.S.C. 1056) is**
11 **amended by adding at the end the**
12 **following new subsection:**

13 **“(e) LIMITATION ON DISTRIBUTIONS OTHER**
14 **THAN LIFE ANNUITIES PAID BY THE PLAN.—**

15 **“(1) IN GENERAL.—Notwithstanding**
16 **any other provision of this part, the fidu-**
17 **ciary of a pension plan that is subject to**
18 **the additional funding requirements of**
19 **section 302(d) shall not permit a prohib-**
20 **ited payment to be made from a plan dur-**
21 **ing a period in which such plan has a li-**
22 **quidity shortfall (as defined in section**
23 **302(e)(5)).**

1 **“(2) PROHIBITED PAYMENT.—For pur-**
2 **poses of paragraph (1), the term ‘prohib-**
3 **ited payment’ means—**

4 **“(A) any payment, in excess of the**
5 **monthly amount paid under a single**
6 **life annuity (plus any social security**
7 **supplements described in the last**
8 **sentence of section 204(b)(1)(G)), to a**
9 **participant or beneficiary whose an-**
10 **nuity starting date (as defined in sec-**
11 **tion 205(h)(2)), that occurs during the**
12 **period referred to in paragraph (1),**

13 **“(B) any payment for the pur-**
14 **chase of an irrevocable commitment**
15 **from an insurer to pay benefits, and**

16 **“(C) any other payment specified**
17 **by the Secretary of the Treasury by**
18 **regulations.**

19 **“(3) PERIOD OF SHORTFALL.—For pur-**
20 **poses of this subsection, a plan has a li-**
21 **quidity shortfall during the period that**
22 **there is an underpayment of an install-**
23 **ment under section 302(e) by reason of**
24 **paragraph (5)(A) thereof.**

1 **“(4) COORDINATION WITH OTHER PROVI-**
2 **SIONS.—Compliance with this subsection**
3 **shall not constitute a violation of any**
4 **other provision of this Act.”**

5 **(ii) Section 502 of such Act is**
6 **amended by adding at the end**
7 **thereof a new subsection (m) to**
8 **read as follows:**

9 **“(m) In the case of a distribution to a pen-**
10 **sion plan participant or beneficiary in viola-**
11 **tion of section 206(e) by a plan fiduciary, the**
12 **Secretary shall assess a penalty against such**
13 **fiduciary in an amount equal to the value of**
14 **the distribution. Such penalty shall not ex-**
15 **ceed \$10,000 for each such distribution.”**

16 **(10) AMENDMENT TO DEFINITION OF**
17 **FULL FUNDING LIMITATION.—**

18 **(A) Subparagraph (A) of section**
19 **302(c)(7) of such Act is amended—**

20 **(i) by inserting “(including**
21 **the expected increase in current**
22 **liability due to benefits accruing**
23 **during the plan year)” after “cur-**
24 **rent liability” in clause (i), and**

1 (ii) by adding at the end the
2 following flush sentences:

3 **“In no event shall the excess de-**
4 **scribed in the preceding sentence for**
5 **any plan year be less than the excess**
6 **(if any) of 90 percent of the current li-**
7 **ability of the plan (including the ex-**
8 **pected increase in current liability**
9 **due to benefits accruing during the**
10 **plan year) over the value of the plan’s**
11 **assets determined under paragraph**
12 **(2). For purposes of the preceding**
13 **sentence, the term ‘current liability’**
14 **has the meaning given such term by**
15 **subsection (d)(7) (determined without**
16 **regard to subsection (d)(7)(D)), and**
17 **assets shall not be reduced by any**
18 **credit balance in the funding stand-**
19 **ard account.”.**

20 **(B) Subparagraph (B) of section**
21 **302(c)(7) of such Act is amended to**
22 **read as follows:**

23 **“(B) CURRENT LIABILITY.—For pur-**
24 **poses of subparagraph (D) and subclause**
25 **(I) of subparagraph (A)(i), the term ‘cur-**

1 **(2) by adding at the end the following**
2 **new subparagraph:**

3 **“(B) APPROVAL REQUIRED FOR CER-**
4 **TAIN CHANGES IN ASSUMPTIONS BY CER-**
5 **TAIN SINGLE EMPLOYER PLANS SUBJECT**
6 **TO ADDITIONAL FUNDING REQUIRE-**
7 **MENT.—**

8 **“(i) IN GENERAL.—No actuarial**
9 **assumption (other than the as-**
10 **sumptions described in sub-**
11 **section (d)(7)(C)) used to deter-**
12 **mine the current liability for a**
13 **plan to which this subparagraph**
14 **applies may be changed without**
15 **the approval of the Secretary of**
16 **the Treasury.**

17 **“(ii) PLANS TO WHICH SUBPARA-**
18 **GRAPH APPLIES.—This subpara-**
19 **graph shall apply to a plan only**
20 **if—**

21 **“(I) subsection (d) applies**
22 **to the plan;**

23 **“(II) the employer (within**
24 **the meaning of section**
25 **302(c)(11) (without regard to**

1 **subparagraph (B) thereof)**
2 **maintaining such plan is de-**
3 **scribed in section 4043(b)(1);**
4 **and**

5 **“(III) the change in as-**
6 **sumptions (determined after**
7 **taking into account any**
8 **changes in interest rate and**
9 **mortality table) results in a**
10 **decrease in the unfunded cur-**
11 **rent liability of the plan for**
12 **the current plan year that is**
13 **\$50,000,000 or greater, or that**
14 **is \$5,000,000 or greater and**
15 **that is 5 percent or more of**
16 **the current liability of the**
17 **plan before such change.”**

18 **(b) EFFECTIVE DATE.—**

19 **(1) IN GENERAL.—The amendment**
20 **made by this section shall apply to**
21 **changes in assumptions for plan years be-**
22 **ginning after October 28, 1993.**

23 **(2) CERTAIN CHANGES CEASE TO BE EF-**
24 **FECTIVE.—In the case of changes in as-**
25 **sumptions for plan years beginning after**

1 **December 31, 1992, and on or before Oc-**
2 **tober 28, 1993, such changes shall cease**
3 **to be effective for plan years beginning**
4 **after December 31, 1994, if—**

5 **(A) such change would have re-**
6 **quired the approval of the Secretary**
7 **of the Treasury had such amendment**
8 **applied to such change, and**

9 **(B) such change is not so ap-**
10 **proved.**

11 **SEC. 103. ANTICIPATION OF BARGAINED BENEFIT IN-**
12 **CREASES.**

13 **(a) IN GENERAL.—Section 302(c) of the Em-**
14 **ployee Retirement Income Security Act of**
15 **1974 (29 U.S.C. 1082(c)) is amended by adding**
16 **at the end the following new paragraph:**

17 **“(12) ANTICIPATION OF BENEFIT INCREASES**
18 **EFFECTIVE IN THE FUTURE.—In determining**
19 **projected benefits, the funding method of a**
20 **collectively bargained plan described in sec-**
21 **tion 413(a) of the Internal Revenue Code of**
22 **1986 (other than a multiemployer plan) shall**
23 **anticipate benefit increases scheduled to take**
24 **effect during the term of the collective bar-**
25 **gaining agreement applicable to the plan.”**

1 **Subtitle B—Amendments to the**
2 **Internal Revenue Code of 1986**

3 **SEC. 121. MINIMUM FUNDING REQUIREMENTS.**

4 **(a) AMENDMENTS TO ADDITIONAL FUNDING**
5 **REQUIREMENTS FOR SINGLE-EMPLOYER PLANS.—**

6 **(1) LIMITATION OF ADDITIONAL FUNDING**
7 **REQUIREMENT TO PLANS HAVING A FUNDED**
8 **CURRENT LIABILITY PERCENTAGE OF LESS**
9 **THAN 90 PERCENT.—Paragraph (1) of sec-**
10 **tion 412(l) of the Internal Revenue Code**
11 **of 1986 (relating to additional funding re-**
12 **quirements for plans which are not multi-**
13 **employer plans) is amended by striking**
14 **“which has an unfunded current liability”**
15 **and inserting “which has a funded cur-**
16 **rent liability percentage of less than 90**
17 **percent (determined without regard to**
18 **paragraph (8)(E))”.**

19 **(2) RELATIONSHIP OF ADDITIONAL FUND-**
20 **ING REQUIREMENT TO FUNDING STANDARD**
21 **ACCOUNT CHARGES AND CREDITS.—**

22 **(A) Clause (ii) of section**
23 **412(l)(1)(A) of such Code is amended**
24 **to read as follows:**

1 “(ii)(I) for plan years begin-
2 ning prior to January 1, 2000, the
3 sum of the charges under sub-
4 section (b)(2) (other than 5 per-
5 cent of the charges established
6 prior to January 1, 1995, under
7 clauses (iv) and (v) of subsection
8 (b)(2)(B)), reduced by the sum of
9 the credits under subsection
10 (b)(3) (other than 5 percent of the
11 credits established prior to Janu-
12 ary 1, 1995, under clauses (ii) and
13 (iii) of subsection (b)(3)(B)), or

14 “(II) for plan years beginning
15 after December 31, 1999, the sum
16 of the charges under subsection
17 (b)(2), reduced by the sum of the
18 credits under subparagraph (B) of
19 subsection (b)(3), plus”.

20 (B) The last sentence in section
21 412(l)(1) of such Code is amended to
22 read as follows:

23 “Such increase shall not exceed the
24 amount which, after taking into account
25 charges (other than the additional charge

1 **under this subsection) and credits under**
2 **subsection (b), is necessary to increase**
3 **the funded current liability percentage**
4 **(taking into account the expected in-**
5 **crease in current liability due to benefits**
6 **accruing during the plan year) to 100 per-**
7 **cent.”**

8 **(3) AMENDMENT TO DEFICIT REDUCTION**
9 **CONTRIBUTION.—Paragraph (2) of section**
10 **412(l) of such Code is amended—**

11 **(A) by striking “plus” at the end**
12 **of subparagraph (A),**

13 **(B) by striking the period at the**
14 **end of subparagraph (B) and insert-**
15 **ing “, and”; and**

16 **(C) by adding at the end the fol-**
17 **lowing new subparagraph:**

18 **“(C) the expected increase in cur-**
19 **rent liability due to benefits accruing**
20 **during the plan year.”**

21 **(4) INCREASE IN UNFUNDED OLD LIABIL-**
22 **ITY.—**

23 **(A) Paragraph (3) of section 412(l)**
24 **of such Code is amended by adding at**

1 **the end the following new subpara-**
2 **graphs:**

3 **“(D) SPECIAL RULE FOR REQUIRED**
4 **CHANGES IN ACTUARIAL ASSUMPTIONS.—**

5 **“(i) IN GENERAL.—The un-**
6 **funded old liability amount with**
7 **respect to any plan for any plan**
8 **year shall be increased by the**
9 **amount necessary to amortize the**
10 **amount of additional unfunded**
11 **old liability under the plan in**
12 **equal annual installments over a**
13 **period of 12 plan years (beginning**
14 **with the first plan year beginning**
15 **after December 31, 1994).**

16 **“(ii) ADDITIONAL UNFUNDED OLD**
17 **LIABILITY.—For purposes of clause**
18 **(i), the term ‘additional unfunded**
19 **old liability’ means the amount (if**
20 **any) by which—**

21 **“(I) the current liability of**
22 **the plan as of the beginning**
23 **of the first plan year begin-**
24 **ning after December 31, 1994,**
25 **valued using the assumptions**

1 required by paragraph (7)(C)
2 as in effect for plan years be-
3 ginning after December 31,
4 1994, exceeds

5 “(II) the current liability
6 of the plan as of the begin-
7 ning of such first plan year,
8 valued using the same as-
9 sumptions used under
10 subclause (I) (other than the
11 assumptions required by
12 paragraph (7)(C)), using the
13 prior interest rate, and using
14 such mortality assumptions as
15 were used to determine cur-
16 rent liability for the first plan
17 year beginning after Decem-
18 ber 31, 1992.

19 “(iii) PRIOR INTEREST RATE.—
20 For purposes of clause (ii), the
21 term ‘prior interest rate’ means
22 the rate of interest that is the
23 same percentage of the weighted
24 average under subsection
25 (b)(5)(B)(ii)(I) for the first plan

1 year beginning after December
2 31, 1994, as the rate of interest
3 used by the plan to determine
4 current liability for the first plan
5 year beginning after December
6 31, 1992, is of the weighted aver-
7 age under subsection
8 (b)(5)(B)(ii)(I) for such first plan
9 year beginning after December
10 31, 1992.

11 “(E) OPTIONAL RULE FOR ADDI-
12 TIONAL UNFUNDED OLD LIABILITY.—

13 “(i) IN GENERAL.—If an election
14 is made under clause (ii), the
15 term ‘additional unfunded old li-
16 ability’ means (in lieu of the addi-
17 tional unfunded old liability de-
18 scribed in clause (ii) of subpara-
19 graph (D)), the amount (if any) by
20 which—

21 “(I) the unfunded current
22 liability of the plan as of the
23 beginning of the first plan
24 year beginning after Decem-
25 ber 31, 1994, valued using the

1 **assumptions required by**
2 **paragraph (7)(C) as in effect**
3 **for plan years beginning after**
4 **December 31, 1994, exceeds**

5 **“(II) the unamortized por-**
6 **tion of the unfunded old li-**
7 **ability under the plan as of**
8 **the beginning of the first plan**
9 **year beginning after Decem-**
10 **ber 31, 1994.**

11 **“(ii) ELECTION.—**

12 **“(I) An employer may ir-**
13 **revocably elect, at such time**
14 **and in such manner as shall**
15 **be prescribed by the Sec-**
16 **retary, to apply the provisions**
17 **of this subparagraph as of the**
18 **beginning of the first plan**
19 **year beginning after Decem-**
20 **ber 31, 1994.**

21 **“(II) If an election is made**
22 **under this clause, the in-**
23 **crease under paragraph (1)**
24 **for any plan year beginning**
25 **after December 31, 1994, and**

1 **before January 1, 2002, shall**
2 **not be less than the increase**
3 **that would be required under**
4 **paragraph (1) if the provi-**
5 **sions of this title as in effect**
6 **for plan years beginning be-**
7 **fore January 1, 1995, had re-**
8 **mained in effect.”**

9 **(5) APPLICABLE PERCENTAGE FOR DE-**
10 **TERMINING UNFUNDED NEW LIABILITY**
11 **AMOUNT.—Subparagraph (C) of section**
12 **412(l)(4) of such Code is amended—**

13 **(A) by striking “.25” and inserting**
14 **“.40”, and**

15 **(B) by striking “35” and inserting**
16 **“60”.**

17 **(6) UNPREDICTABLE CONTINGENT EVENT**
18 **AMOUNT.—**

19 **(A) Subparagraph (A) of section**
20 **412(l)(5) of such Code is amended—**

21 **(i) by striking “greater of” and**
22 **inserting “greatest of” before**
23 **clause (i);**

24 **(ii) by striking “or” at the end**
25 **of clause (i);**

1 **(iii) by striking the period at**
2 **the end of clause (ii) and insert-**
3 **ing “, or”; and**

4 **(iv) by adding after clause (ii)**
5 **the following new clause:**

6 **“(iii) the additional amount**
7 **that would be determined under**
8 **paragraph (4)(A) if the unpredict-**
9 **able contingent event benefit li-**
10 **abilities were included in un-**
11 **funded new liability notwith-**
12 **standing paragraph (4)(B)(ii).”**

13 **(B) Paragraph (5) of section 412(l)**
14 **of such Code is amended by adding at**
15 **the end the following new subpara-**
16 **graph:**

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

23 **(C) Clause (ii) of section**
24 **412(m)(4)(D) of such Code is amend-**
25 **ed—**

1 **(i) by striking “greater of” and**
2 **inserting “greatest of” before**
3 **subclause (I);**

4 **(ii) by striking “or” at the end**
5 **of subclause (I);**

6 **(iii) by striking the period at**
7 **the end of subclause (II) and in-**
8 **serting “, or”; and**

9 **(iv) by adding after subclause**
10 **(II) the following new subclause:**

11 **“(III) 25 percent of the**
12 **amount determined under**
13 **subsection (l)(5)(A)(iii) for the**
14 **plan year.”**

15 **(7) REQUIRED INTEREST RATE AND MOR-**
16 **TALITY ASSUMPTIONS FOR DETERMINING CUR-**
17 **RENT LIABILITY.—Subparagraph (C) of sec-**
18 **tion 412(l)(7) of such Code is amended to**
19 **read as follows:**

20 **“(C) INTEREST RATE AND MORTALITY**
21 **ASSUMPTIONS USED.—Effective for plan**
22 **years beginning after December 31,**
23 **1994—**

24 **“(i) the rate of interest used to**
25 **determine current liability under**

1 **this subsection shall be the rate**
2 **of interest used under subsection**
3 **(b)(5), except that the highest rate**
4 **in the permissible range under**
5 **subparagraph (B)(ii) thereof shall**
6 **not exceed 105 percent of the**
7 **weighted average referred to in**
8 **such subparagraph, and**

9 **“(ii) the mortality table used**
10 **to determine current liability**
11 **under this subsection shall be the**
12 **table prescribed by the Secretary.**

13 **The table prescribed under clause (ii)**
14 **shall be based on the prevailing com-**
15 **missioners’ standard table (described**
16 **in section 807(d)(5)(A)) used to deter-**
17 **mine reserves for group annuity con-**
18 **tracts issued on the date as of which**
19 **current liability is determined (with-**
20 **out regard to any other subparagraph**
21 **of section 807(d)(5)). The Secretary**
22 **shall prescribe separate tables, which**
23 **may be used instead of the table de-**
24 **scribed in the preceding sentence, to**
25 **calculate mortality rates for partici-**

1 **pants who satisfy the definition of**
2 **disability under titles II and XVI of**
3 **the Social Security Act and the regu-**
4 **lations thereunder.”**

5 **(8) TRANSITION RULE.—Section 412(l) of**
6 **such Code is amended by adding at the**
7 **end the following new paragraph:**

8 **“(9) PHASE-IN OF INCREASES IN FUNDING**
9 **REQUIRED BY RETIREMENT PROTECTION ACT**
10 **OF 1994.—**

11 **“(A) IN GENERAL.—For any appli-**
12 **cable plan year, at the election of the**
13 **employer, the increase under para-**
14 **graph (1) shall not exceed the greater**
15 **of—**

16 **“(i) the increase that would be**
17 **required under paragraph (1) if**
18 **the provisions of this title as in**
19 **effect for plan years beginning be-**
20 **fore January 1, 1995, had re-**
21 **mained in effect, or**

22 **“(ii) the amount which, after**
23 **taking into account charges**
24 **(other than the additional charge**
25 **under this subsection) and credits**

1 **under subsection (b), is necessary**
 2 **to increase the funded current li-**
 3 **ability percentage (taking into ac-**
 4 **count the expected increase in**
 5 **current liability due to benefits**
 6 **accruing during the plan year) for**
 7 **the applicable plan year to a per-**
 8 **centage equal to the sum of the**
 9 **initial funded current liability**
 10 **percentage of the plan plus the**
 11 **applicable number of percentage**
 12 **points for such applicable plan**
 13 **year.**

14 **“(B) APPLICABLE NUMBER OF PER-**
 15 **CENTAGE POINTS.—**

16 **“(i) INITIAL FUNDED CURRENT**
 17 **LIABILITY PERCENTAGE OF 75 PER-**
 18 **CENT OR LESS.—Except as pro-**
 19 **vided in clause (ii), for plans with**
 20 **an initial funded current liability**
 21 **percentage of 75 percent or less,**
 22 **the applicable number of percent-**
 23 **age points for the applicable plan**
 24 **year is as follows:**

“In the case of applicable plan years beginning in:	The applicable number of percentage points is:
1995	3

1996	6
1997	9
1998	12
1999	15
2000	19
2001	24.

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“(ii) OTHER CASES.—In the case of a plan to which this clause applies, the applicable number of percentage points for any such applicable plan year is the sum of—

“(I) 2 percentage points;

“(II) the applicable number of percentage points (if any) under this clause for the preceding applicable plan year;

“(III) the product of .10 multiplied by the excess (if any) of (a) 85 percentage points over (b) the sum of the initial funded current liability percentage and the number determined under subclause (II);

1 **“(IV) for applicable plan**
2 **years beginning in 2000, 1 per-**
3 **centage point; and**

4 **“(V) for applicable plan**
5 **years beginning in 2001, 2 per-**
6 **centage points.**

7 **“(iii) PLANS TO WHICH CLAUSE**
8 **(ii) APPLIES.—**

9 **“(I) IN GENERAL.—Clause**
10 **(ii) shall apply to a plan for**
11 **an applicable plan year if the**
12 **initial funded current liability**
13 **percentage of such plan is**
14 **more than 75 percent.**

15 **“(II) PLANS INITIALLY**
16 **UNDER CLAUSE (i).—In the case**
17 **of a plan which (but for this**
18 **subclause) has an initial fund-**
19 **ed current liability percent-**
20 **age of 75 percent or less,**
21 **clause (ii) (and not clause (i))**
22 **shall apply to such plan with**
23 **respect to applicable plan**
24 **years beginning after the first**
25 **applicable plan year for**

1 **which the sum of the initial**
2 **funded current liability per-**
3 **centage and the applicable**
4 **number of percentage points**
5 **(determined under clause (i))**
6 **exceeds 75 percent. For pur-**
7 **poses of applying clause (ii) to**
8 **such a plan, the initial funded**
9 **current liability percentage of**
10 **such plan shall be treated as**
11 **being the sum referred to in**
12 **the preceding sentence.**

13 **“(C) DEFINITIONS.—For purposes**
14 **of this paragraph—**

15 **“(i) The term ‘applicable plan**
16 **year’ means a plan year begin-**
17 **ning after December 31, 1994, and**
18 **before January 1, 2002.**

19 **“(ii) The term ‘initial funded**
20 **current liability percentage’**
21 **means the funded current liabil-**
22 **ity percentage as of the first day**
23 **of the first plan year beginning**
24 **after December 31, 1994.”**

25 **(9) LIQUIDITY REQUIREMENT.—**

1 **(A) Section 412(m) of such Code is**
2 **amended by redesignating paragraph**
3 **(5) as paragraph (6) and by inserting**
4 **after paragraph (4) the following new**
5 **paragraph:**

6 **“(5) LIQUIDITY REQUIREMENT.—**

7 **“(A) IN GENERAL.—A plan to which**
8 **this paragraph applies shall be treat-**
9 **ed as failing to pay the full amount of**
10 **any required installment to the ex-**
11 **tent that the value of the liquid assets**
12 **paid in such installment is less than**
13 **the liquidity shortfall (whether or not**
14 **such liquidity shortfall exceeds the**
15 **amount of such installment required**
16 **to be paid but for this paragraph).**

17 **“(B) PLANS TO WHICH PARAGRAPH**
18 **APPLIES.—This paragraph shall apply**
19 **to a defined benefit plan to which**
20 **subsection (l) applies and which—**

21 **“(i) is required to pay install-**
22 **ments under this subsection for a**
23 **plan year, and**

1 “(ii) has a liquidity shortfall
2 for any quarter during such plan
3 year.

4 “(C) PERIOD OF UNDERPAYMENT.—
5 For purposes of paragraph (1), any
6 portion of an installment that is
7 treated as not paid under subpara-
8 graph (A) shall continue to be treated
9 as unpaid until the close of the quar-
10 ter in which the due date for such in-
11 stallment occurs.

12 “(D) LIMITATION ON INCREASE.—If
13 the amount of any required install-
14 ment is increased by reason of sub-
15 paragraph (A), in no event shall such
16 increase exceed the amount which,
17 when added to prior installments for
18 the plan year, is necessary to increase
19 the funded current liability percent-
20 age (taking into account the expected
21 increase in current liability due to
22 benefits accruing during the plan
23 year) to 100 percent.

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

1 **“(i) LIQUIDITY SHORTFALL.—The**
2 **term ‘liquidity shortfall’ means,**
3 **with respect to any required in-**
4 **stallment, an amount equal to the**
5 **excess (as of the last day of the**
6 **quarter for which such install-**
7 **ment is made) of the base amount**
8 **with respect to such quarter over**
9 **the value (as of such last day) of**
10 **the plan’s liquid assets.**

11 **“(ii) BASE AMOUNT.—**

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

20 **“(II) SPECIAL RULE.—If the**
21 **amount determined under**
22 **clause (i) exceeds an amount**
23 **equal to 2 times the sum of**
24 **the adjusted disbursements**
25 **from the plan for the 36**

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

12 **“(iii) DISBURSEMENTS FROM THE**
13 **PLAN.—The term ‘disbursements**
14 **from the plan’ means all disburse-**
15 **ments from the trust, including**
16 **purchases of annuities, payments**
17 **of single sums and other benefits,**
18 **and administrative expenses.**

19 **“(iv) ADJUSTED DISBURSE-**
20 **MENTS.—The term ‘adjusted dis-**
21 **bursements’ means disbursements**
22 **from the plan reduced by the**
23 **product of—**

24 **“(I) the plan’s funded cur-**
25 **rent liability percentage (as**

1 **defined in subsection (l)(8))**
2 **for the plan year, and**

3 **“(II) the sum of the pur-**
4 **chases of annuities, payments**
5 **of single sums, and such other**
6 **disbursements as the Sec-**
7 **retary shall provide in regula-**
8 **tions.**

9 **“(v) LIQUID ASSETS.—The term**
10 **‘liquid assets’ means cash, mar-**
11 **ketable securities and such other**
12 **assets as specified by the Sec-**
13 **retary in regulations.**

14 **“(vi) QUARTER.—The term**
15 **‘quarter’ means, with respect to**
16 **any required installment, the 3-**
17 **month period preceding the**
18 **month in which the due date for**
19 **such installment occurs.**

20 **“(F) REGULATIONS.—The Secretary**
21 **may prescribe such regulations as are**
22 **necessary to carry out this para-**
23 **graph.”**

24 **(B) EXCISE TAX ON UNPAID LIQUID-**
25 **ITY SHORTFALL.—**

1 **(i) Subsection (e) of section**
2 **4971 of such Code is amended by**
3 **striking “(a) or (b)” wherever it**
4 **appears and replacing it with**
5 **“(a), (b) or (f)”.**

6 **(ii) Section 4971 of such Code**
7 **is amended by redesignating sub-**
8 **section (f) as subsection (g) and**
9 **adding a new subsection (f) to**
10 **read as follows:**

11 **“(f) FAILURE TO PAY LIQUIDITY SHORT-**
12 **FALL.—**

13 **“(1) IN GENERAL.—In the case of a plan**
14 **to which section 412(m)(5) applies, there**
15 **is hereby imposed a tax of 10 percent of**
16 **the excess (if any) of—**

17 **“(A) the amount of the liquidity**
18 **shortfall for any quarter, over**

19 **“(B) the amount of such shortfall**
20 **which is paid by the required install-**
21 **ment under section 412(m) for such**
22 **quarter (but only if such installment**
23 **is paid on or before the due date for**
24 **such installment).**

1 **“(2) ADDITIONAL TAX.—If the plan has a**
2 **liquidity shortfall as of the close of any**
3 **quarter and as of the close of each of the**
4 **following 4 quarters, there is hereby im-**
5 **posed a tax equal to 100 percent of the**
6 **amount on which tax was imposed by**
7 **paragraph (1) for such first quarter.**

8 **“(3) DEFINITIONS AND SPECIAL RULE.—**

9 **“(A) LIQUIDITY SHORTFALL; QUAR-**
10 **TER.—For purposes of this subsection,**
11 **the terms ‘liquidity shortfall’ and**
12 **‘quarter’ have the respective mean-**
13 **ings given such terms by section**
14 **412(m)(5).**

15 **“(B) SPECIAL RULE.—If the tax im-**
16 **posed by paragraph (2) is paid with**
17 **respect to any liquidity shortfall for**
18 **any quarter, no further tax shall be**
19 **imposed by this subsection on such**
20 **shortfall for such quarter.”**

21 **(C) TREATMENT OF FAILURE TO**
22 **MAKE CERTAIN PAYMENTS IF PLAN HAS**
23 **LIQUIDITY SHORTFALL.—Section 401(a)**
24 **of such Code is amended by adding at**
25 **the end the following new paragraph:**

1 **“(32) TREATMENT OF FAILURE TO MAKE**
2 **CERTAIN PAYMENTS IF PLAN HAS LIQUIDITY**
3 **SHORTFALL.—**

4 **“(A) IN GENERAL.—A trust forming**
5 **part of a pension plan to which sec-**
6 **tion 412(m)(5) applies shall not be**
7 **treated as failing to constitute a**
8 **qualified trust under this section**
9 **merely because such plan ceases to**
10 **make any payment described in sub-**
11 **paragraph (B) during any period that**
12 **such plan has a liquidity shortfall (as**
13 **defined in section 412(m)(5)).**

14 **“(B) PAYMENTS DESCRIBED.—A pay-**
15 **ment is described in this subpara-**
16 **graph if such payment is—**

17 **“(i) any payment, in excess of**
18 **the monthly amount paid under a**
19 **single life annuity (plus any social**
20 **security supplements described in**
21 **the last sentence of section**
22 **411(a)(9)), to a participant or ben-**
23 **eficiary whose annuity starting**
24 **date (as defined in section**
25 **417(f)(2)) occurs during the pe-**

1 riod referred to in subparagraph
2 (A),

3 “(ii) any payment for the pur-
4 chase of an irrevocable commit-
5 ment from an insurer to pay bene-
6 fits, and

7 “(iii) any other payment speci-
8 fied by the Secretary by regula-
9 tions.

10 “(C) PERIOD OF SHORTFALL.—For
11 purposes of this paragraph, a plan
12 has a liquidity shortfall during the
13 period that there is an underpayment
14 of an installment under section
15 412(m) by reason of paragraph (5)(A)
16 thereof.”

17 (10) AMENDMENT TO DEFINITION OF
18 FULL FUNDING LIMITATION.—

19 (A) Subparagraph (A) of section
20 412(c)(7) of such Code is amended—

21 (i) by inserting “(including
22 the expected increase in current
23 liability due to benefits accruing
24 during the plan year)” after “cur-
25 rent liability” in clause (i), and

1 (ii) by adding at the end the
2 following flush sentences:

3 **“In no event shall the excess de-**
4 **scribed in the preceding sentence for**
5 **any plan year be less than the excess**
6 **(if any) of 90 percent of the current li-**
7 **ability of the plan (including the ex-**
8 **pected increase in current liability**
9 **due to benefits accruing during the**
10 **plan year) over the value of the plan’s**
11 **assets determined under paragraph**
12 **(2). For purposes of the preceding**
13 **sentence, the term ‘current liability’**
14 **has the meaning given such term by**
15 **subsection (l)(7) (determined without**
16 **regard to subsection (l)(7)(D)), and as-**
17 **sets shall not be reduced by any cred-**
18 **it balance in the funding standard ac-**
19 **count.”.**

20 **(B) Subparagraph (B) of section**
21 **412(c)(7) of such Code is amended to**
22 **read as follows:**

23 **“(B) CURRENT LIABILITY.—For pur-**
24 **poses of subparagraph (D) and**
25 **subclause (I) of subparagraph (A)(i),**

1 **“(A) IN GENERAL.—If the funding**
2 **method”, and**

3 **(2) by adding at the end the following**
4 **new subparagraph:**

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

9 **“(i) IN GENERAL.—No actuarial as-**
10 **sumption (other than the assump-**
11 **tions described in subsection**
12 **(l)(7)(C)) used to determine the cur-**
13 **rent liability for a plan to which this**
14 **subparagraph applies may be**
15 **changed without the approval of the**
16 **Secretary.**

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

20 **“(I) subsection (l) applies to**
21 **the plan;**

22 **“(II) the employer (within the**
23 **meaning of section 412(c)(11)**
24 **(without regard to subparagraph**
25 **(B) thereof)) maintaining such**

1 **plan is described in section**
2 **4043(b)(1) of the Employee Retire-**
3 **ment Income Security Act of 1974;**
4 **and**

5 **“(III) the change in assump-**
6 **tions (determined after taking**
7 **into account any changes in inter-**
8 **est rate and mortality table) re-**
9 **sults in a decrease in the un-**
10 **funded current liability of the**
11 **plan for the current plan year**
12 **that is \$50,000,000 or greater, or**
13 **that is \$5,000,000 or greater and**
14 **that is 5 percent or more of the**
15 **current liability of the plan be-**
16 **fore such change.”**

17 **(b) EFFECTIVE DATE.—**

18 **(1) IN GENERAL.—The amendment**
19 **made by this section shall apply to**
20 **changes in assumptions for plan years be-**
21 **ginning after October 28, 1993.**

22 **(2) CERTAIN CHANGES CEASE TO BE EF-**
23 **FECTIVE.—In the case of changes in as-**
24 **sumptions for plan years beginning after**
25 **December 31, 1992, and on or before Oc-**

1 **tober 28, 1993, such changes shall cease**
2 **to be effective for plan years beginning**
3 **after December 31, 1994, if—**

4 **(A) such change would have re-**
5 **quired the approval of the Secretary**
6 **of the Treasury had such amendment**
7 **applied to such change, and**

8 **(B) such change is not so ap-**
9 **proved.**

10 **SEC. 123. ANTICIPATION OF BARGAINED BENEFIT IN-**
11 **CREASES.**

12 **(a) IN GENERAL.—Section 412(c) of the In-**
13 **ternal Revenue Code of 1986 is amended by**
14 **adding at the end the following new para-**
15 **graph:**

16 **“(12) ANTICIPATION OF BENEFIT IN-**
17 **CREASES EFFECTIVE IN THE FUTURE.—In de-**
18 **termining projected benefits, the funding**
19 **method of a collectively bargained plan**
20 **described in section 413(a) (other than a**
21 **multiemployer plan) shall anticipate ben-**
22 **efit increases scheduled to take effect**
23 **during the term of the collective bargain-**
24 **ing agreement applicable to the plan.”**

1 **(b) EFFECTIVE DATE.—The amendment**
2 **made by this section shall apply to plan years**
3 **beginning after December 31, 1994, with re-**
4 **spect to collective bargaining agreements in**
5 **effect on or after January 1, 1995.**

6 **SEC. 124. MODIFICATION OF QUARTERLY CONTRIBUTION**
7 **REQUIREMENT.**

8 **(a) IN GENERAL.—Paragraph (1) of section**
9 **412(m) of the Internal Revenue Code of 1986**
10 **is amended—**

11 **(1) by inserting “which has a funded**
12 **current liability percentage (as defined in**
13 **subsection (l)(8)) for the preceding plan**
14 **year of less than 100 percent” before**
15 **“fails”, and**

16 **(2) by striking “any plan year” and in-**
17 **serting “the plan year”.**

18 **(b) EFFECTIVE DATE.—The amendment**
19 **made by this section shall apply to plan years**
20 **beginning after the date of enactment of this**
21 **Act.**

22 **SEC. 125. EXCEPTIONS TO EXCISE TAX ON NONDEDUCTIBLE**
23 **CONTRIBUTIONS.**

24 **(a) IN GENERAL.—Section 4972(c) of the In-**
25 **ternal Revenue Code of 1986 is amended by**

1 adding at the end the following new para-
2 graph:

3 **“(6) EXCEPTIONS.—In determining the**
4 **amount of nondeductible contributions**
5 **for any taxable year, there shall not be**
6 **taken into account—**

7 **“(A) contributions that would be**
8 **deductible under section 404(a)(1)(D)**
9 **if the plan had more than 100 partici-**
10 **pants if—**

11 **“(i) the plan is covered under**
12 **section 4021 of the Employee Re-**
13 **tirement Income Security Act of**
14 **1974, and**

15 **“(ii) the plan is terminated**
16 **under section 4041(b) of such Act**
17 **on or before the last day of the**
18 **taxable year, and**

19 **“(B) contributions to a defined**
20 **contribution plan which—**

21 **“(i) do not exceed 6 percent of**
22 **compensation (within the mean-**
23 **ing of section 404(a)(7)(A)(i)) paid**
24 **or accrued (during the taxable**
25 **year for which the contributions**

1 **were made) to beneficiaries under**
2 **the plan, and**

3 **“(ii) are not deductible when**
4 **contributed solely because of sec-**
5 **tion 404(a)(7).**

6 **If one or more defined benefit plans were**
7 **taken into account in determining the**
8 **amount allowable as a deduction under**
9 **section 404 for contributions to any de-**
10 **defined contribution plan, subparagraph**
11 **(B) shall apply only if all such defined**
12 **benefit plans are described in section**
13 **404(a)(1)(D). For purposes of subpara-**
14 **graph (B), the deductible limits under**
15 **section 404(a)(7) shall first be applied to**
16 **amounts contributed to a defined benefit**
17 **plan and then to amounts described in**
18 **subparagraph (B).”**

19 **(b) EFFECTIVE DATE.—**

20 **(1) SECTION 4972(c)(6)(A).—Section**
21 **4972(c)(6)(A) of the Internal Revenue**
22 **Code of 1986 (as added by this section)**
23 **shall apply to taxable years ending on or**
24 **after the date of enactment of this Act.**

1 **(2) SECTION 4972(C)(6)(B).—Section**
2 **4972(c)(6)(B) of such Code (as added by**
3 **this section) shall apply to taxable years**
4 **ending on or after December 31, 1992.**

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

9 **SEC. 201. REPORTABLE EVENTS.**

10 **(a) RESPONSIBILITY FOR REPORTABLE**
11 **EVENTS REPORTING.—Section 4043(a) of the**
12 **Employee Retirement Income Security Act of**
13 **1974 (29 U.S.C. 1343(a)) is amended—**

14 **(1) in the first sentence, by inserting**
15 **“or the contributing sponsor” before**
16 **“knows or has reason to know”;**

17 **(2) in the first sentence, by inserting**
18 **“, unless a notice otherwise required**
19 **under this subsection has already been**
20 **provided with respect to such event” be-**
21 **fore the period at the end; and**

22 **(3) by striking the last sentence.**

23 **(b) NOTIFICATION THAT EVENT IS ABOUT TO**
24 **OCCUR.—Section 4043 of such Act is amended**
25 **by redesignating subsections (b), (c), and (d)**

1 as (c), (d), and (e), respectively, and by insert-
2 ing after subsection (a) the following new sub-
3 section:

4 “(b)(1) The requirements of this sub-
5 section shall be applicable to a contributing
6 sponsor only if the aggregate unfunded vested
7 benefits at the end of the preceding plan year
8 (as determined under section
9 4006(a)(3)(E)(iii)) of plans which are main-
10 tained by such sponsor and the members of
11 such sponsor’s controlled group and are cov-
12 ered by this title exceed \$50,000,000 (taking
13 into account only those plans with unfunded
14 vested benefits).

15 “(2) No later than 30 days prior to the ef-
16 fective date of an event described in para-
17 graph (9), (10), (11), (12), or (13) of subsection
18 (c), a contributing sponsor to which the re-
19 quirements of this subsection apply shall no-
20 tify the corporation that the event is about to
21 occur.

22 “(3) The corporation may waive the re-
23 quirement of this subsection with respect to
24 any or all reportable events with respect to
25 any contributing sponsor.”

1 **(c) NEW REPORTABLE EVENTS.—Subsection**
2 **(c) of section 4043 of such Act (as redesignated**
3 **by subsection (b)) is amended—**

4 **(1) by striking the “or” at the end of**
5 **paragraph (8);**

6 **(2) by striking paragraph (9); and**

7 **(3) by inserting after paragraph (8)**
8 **the following new paragraphs:**

9 **“(9) when, as a result of an event, a**
10 **person ceases to be a member of the con-**
11 **trolled group;**

12 **“(10) when a contributing sponsor or**
13 **a member of a contributing sponsor’s**
14 **controlled group liquidates in a case**
15 **under title 11, United States Code, or**
16 **under any similar Federal law or law of**
17 **a State or political subdivision of a State;**

18 **“(11) when a contributing sponsor or**
19 **a member of a contributing sponsor’s**
20 **controlled group declares an extraor-**
21 **dinary dividend (as defined in section**
22 **1059(c) of the Internal Revenue Code of**
23 **1986) or redeems, in any 12-month period,**
24 **an aggregate of 10 percent or more of the**
25 **total combined voting power of all classes**

1 of stock entitled to vote, or an aggregate
2 of 10 percent or more of the total value of
3 shares of all classes of stock, of a contrib-
4 uting sponsor and all members of its con-
5 trolled group;

6 “(12) when, in any 12-month period,
7 an aggregate of 3 percent or more of the
8 benefit liabilities of a plan covered by
9 this title and maintained by a contribut-
10 ing sponsor or a member of its controlled
11 group are transferred to a person that is
12 not a member of the controlled group or
13 to a plan or plans maintained by a person
14 or persons that are not such a contribut-
15 ing sponsor or a member of its controlled
16 group; or

17 “(13) when any other event occurs
18 that may be indicative of a need to termi-
19 nate the plan and that is prescribed by
20 the corporation in regulations.”

21 **(d) DISCLOSURE EXEMPTION.—Section 4043**
22 **of such Act is amended by adding at the end**
23 **the following new subsection:**

24 “(f) Any information or documentary ma-
25 terial submitted to the corporation pursuant

1 to this section or section 4050(c) shall be ex-
2 empt from disclosure under section 552 of
3 title 5, United States Code, and no such infor-
4 mation or documentary material may be made
5 public, except as may be relevant to any ad-
6 ministrative or judicial action or proceeding.
7 Nothing in this section is intended to prevent
8 disclosure to either body of Congress or to
9 any duly authorized committee or subcommit-
10 tee of the Congress.”

11 (e) TECHNICAL AND CONFORMING AMEND-
12 MENTS.—

13 (1) Subsection (a) of section 4043 of
14 such Act, and subsections (d) and (e) of
15 such section 4043 (as redesignated by
16 subsection (b)) are amended by striking
17 “subsection (b)” each place it appears
18 and inserting “subsection (c)”.

19 (2) Section 4042(a)(3) of such Act is
20 amended by striking “4043(b)(7)” and in-
21 serting “4043(c)(7)”.

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

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

2 **(a) IN GENERAL.—**Subtitle C of title IV of
3 **the Employee Retirement Income Security**
4 **Act of 1974 (29 U.S.C. 1341 et seq.) is amended**
5 **by adding at the end the following new sec-**
6 **tion:**

7 **“JUDICIAL RELIEF OTHER THAN INVOLUNTARY**
8 **TERMINATION**

9 **“SEC. 4050. (a) INSTITUTION OF PROCEED-**
10 **INGS.—**

11 **“(1) IN GENERAL.—**Whenever the cor-
12 **poration determines (without regard to**
13 **the potential availability of relief under**
14 **this section) that, upon the occurrence of**
15 **an event described in paragraph (9), (10),**
16 **(11), (12), or (13) of section 4043(c), the**
17 **possible long-run loss of the corporation**
18 **with respect to a plan may reasonably be**
19 **expected to increase unreasonably if the**
20 **plan is not terminated, the corporation**
21 **may, in its discretion, institute proceed-**
22 **ings under this section as an alternative**
23 **to instituting proceedings under section**
24 **4042 to terminate the plan.**

25 **“(2) LIMITATION.—**In the case of an
26 **event described in paragraph (9) or (13)**

1 **of section 4043(c), this section shall apply**
2 **only if, immediately after the effective**
3 **date of the event, the total revenues, the**
4 **total operating income, or the total assets**
5 **of a contributing sponsor and all mem-**
6 **bers of its controlled group would be less**
7 **than 90 percent of the total revenues, the**
8 **total operating income, or the total as-**
9 **sets, respectively, of a contributing spon-**
10 **sor and all members of its controlled**
11 **group immediately before the effective**
12 **date of the event. For purposes of this**
13 **paragraph, all events occurring in any 12-**
14 **month period shall be treated as a single**
15 **event.**

16 **“(b) Whenever the corporation makes a**
17 **determination under subsection (a), it may,**
18 **upon notice to a contributing sponsor, apply**
19 **to the appropriate United States district court**
20 **for such legal or equitable relief as the cor-**
21 **poration deems appropriate and consistent**
22 **with its duties under this title. The court shall**
23 **grant such relief as it determines necessary to**
24 **protect the interests of the participants or to**
25 **avoid any unreasonable deterioration of the**

1 **financial condition of the plan or any unrea-**
2 **sonable increase in the liability of the fund,**
3 **without interfering unreasonably with the**
4 **business of the contributing sponsor or mem-**
5 **bers of its controlled group.**

6 **“(c)(1) In any case in which the corpora-**
7 **tion is provided with a notice required by**
8 **subsection 4043(b) within the time specified**
9 **in that subsection, the corporation may bring**
10 **an action under this section no later than 30**
11 **days after the date such notice is received.**
12 **Notwithstanding the preceding sentence, the**
13 **corporation may, no later than 30 days after**
14 **the date such notice is received, require the**
15 **submission of additional information or docu-**
16 **mentary material, in which case an action**
17 **under this section may be brought no later**
18 **than 20 days after the corporation receives all**
19 **the information and documentary material it**
20 **had required.**

21 **“(2) After a notice described in paragraph**
22 **(1) is provided to the corporation, a person**
23 **may elect, upon further notice to the corpora-**
24 **tion, to proceed with an event prior to the ex-**
25 **piration of the time periods described in para-**

1 **graph (1). In the case of such an election, an**
2 **action under this section may be brought at**
3 **any time within the period specified in sub-**
4 **section 4003(e)(6).**

5 **“(3) In any case in which the corporation**
6 **is not provided with a notice required by sub-**
7 **section (b) of section 4043 by the time speci-**
8 **fied in that subsection, in any case in which**
9 **a person fails or refuses to provide the addi-**
10 **tional information or documentary material**
11 **required by the corporation under paragraph**
12 **(1), or in any case in which a person proceeds**
13 **with an event without providing the corpora-**
14 **tion with the further notice required under**
15 **paragraph (2) with respect to such event, an**
16 **action under this section may be brought at**
17 **any time within the time period specified in**
18 **subsection 4003(e)(6).**

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

23 **“(5) For purposes of applying subsection**
24 **4003(e)(6) to paragraphs (2) and (3), a cause of**

1 **action shall be deemed to arise on the effec-**
2 **tive date of the event.**

3 **“(d) Nothing in this section shall limit the**
4 **authority of the corporation to initiate pro-**
5 **ceedings to terminate a plan under section**
6 **4042, or to initiate proceedings or to seek re-**
7 **lief under any other provision of this title or**
8 **any other law.”**

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

15 **(c) CLERICAL AMENDMENT.—The table of**
16 **contents contained in section 1 of such Act is**
17 **amended by inserting after the item relating**
18 **to section 4048 the following new item:**

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

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

1 SEC. 203. CERTAIN INFORMATION REQUIRED TO BE FUR-
2 NISHED TO PBGC.

3 (a) GENERAL RULE.—Subtitle A of title IV
4 of the Employee Retirement Income Security
5 Act of 1974 (29 U.S.C. 1301 et seq.) is amended
6 by adding at the end the following new sec-
7 tion:

8 “SEC. 4010. AUTHORITY TO REQUIRE CERTAIN INFORMA-
9 TION.

10 “(a) INFORMATION REQUIRED.—Each person
11 described in subsection (b) shall provide the
12 corporation annually, on or before a date
13 specified by the corporation in regulations,
14 with—

15 “(1) such records, documents, or
16 other information that the corporation
17 specifies in regulations as necessary to
18 determine the liabilities and assets of
19 plans covered by this title; and

20 “(2) copies of such person’s audited
21 (or, if unavailable, unaudited) financial
22 statements, and such other financial in-
23 formation as the corporation may pre-
24 scribe in regulations.

25 “(b) PERSONS REQUIRED TO PROVIDE INFOR-
26 MATION.—The persons covered by subsection

1 **(a) are each contributing sponsor, and each**
2 **member of a contributing sponsor’s controlled**
3 **group, of a single-employer plan covered by**
4 **this title, if—**

5 **“(1) the aggregate unfunded vested**
6 **benefits at the end of the preceding plan**
7 **year (as determined under section**
8 **4006(a)(3)(E)(iii) of plans which are**
9 **maintained by the contributing sponsor**
10 **and the members of its controlled group**
11 **and are covered by this title exceed**
12 **\$50,000,000 (taking into account only**
13 **those plans of the contributing sponsor**
14 **and its controlled group with unfunded**
15 **vested benefits); or**

16 **“(2) the conditions for imposition of a**
17 **lien described in section 302(f)(1)(A) and**
18 **(B) of this Act or section 412(n)(1)(A) and**
19 **(B) of the Internal Revenue Code of 1986**
20 **have been met with respect to any plan**
21 **maintained by the contributing sponsor**
22 **or any member of its controlled group; or**

23 **“(3) minimum funding waivers in ex-**
24 **cess of \$1,000,000 have been granted with**
25 **respect to any plan maintained by the**

1 **contributing sponsor or any member of**
2 **its controlled group, and any portion**
3 **thereof is still outstanding.**

4 **“(c) INFORMATION EXEMPT FROM DISCLO-**
5 **SURE REQUIREMENTS.—Any information or doc-**
6 **umentary material submitted to the corpora-**
7 **tion pursuant to this section shall be exempt**
8 **from disclosure under section 552 of title 5,**
9 **United States Code, and no such information**
10 **or documentary material may be made public,**
11 **except as may be relevant to any administra-**
12 **tive or judicial action or proceeding. Nothing**
13 **in this section is intended to prevent disclo-**
14 **sure to either body of Congress or to any duly**
15 **authorized committee or subcommittee of the**
16 **Congress.”**

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

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

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

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

4 **(a) IN GENERAL.—Section 4062 of the Em-**
5 **ployee Retirement Income Security Act of**
6 **1974 (29 U.S.C. 1362) is amended by adding at**
7 **the end the following new subsection:**

8 **“(f) LIABILITY ON LIQUIDATION OF CONTRIB-**
9 **UTING SPONSOR OR CONTROLLED GROUP MEM-**
10 **BER.—**

11 **“(1) IN GENERAL.—In any case in**
12 **which—**

13 **“(A) all or substantially all of the**
14 **assets of a person who is a contribut-**
15 **ing sponsor of a single-employer plan,**
16 **or a member of a controlled group of**
17 **a contributing sponsor of a single-em-**
18 **ployer plan, are liquidated—**

19 **“(i) in a case under chapter 7**
20 **of title 11, United States Code,**

21 **“(ii) in a case under chapter**
22 **11 of such title 11 in which—**

23 **“(I) the plan confirmed**
24 **under such chapter 11 pro-**
25 **vides for the liquidation of all**

1 **or substantially all of the**
2 **property of the estate, and**

3 **“(II) the debtor does not**
4 **engage in business after the**
5 **confirmation of such plan, or**

6 **“(iii) under any similar Fed-**
7 **eral law or law of a State or polit-**
8 **ical subdivision of a State, and**

9 **“(B) the single-employer plan is**
10 **not terminated,**

11 **such person shall be deemed liable under**
12 **subsection (b) as if the single-employer**
13 **plan had terminated under section**
14 **4041(c) in the course of such liquidation**
15 **and as if the termination date were the**
16 **date determined by the corporation as**
17 **the date on which the liquidation was ini-**
18 **tiated.**

19 **“(2) LIMITED JOINT AND SEVERAL LIABIL-**
20 **ITY.—The liability under this subsection**
21 **shall be joint and several only among the**
22 **members of the controlled group (includ-**
23 **ing, where applicable, the contributing**
24 **sponsor) who are liquidating as described**
25 **in paragraph (1).**

1 **“(3) APPLICABILITY OF OTHER PROVI-**
2 **SIONS.—Except as provided in paragraph**
3 **(2), any provision of this Act or any other**
4 **provision of law that applies to liability**
5 **under the preceding subsections of this**
6 **section upon termination of a plan shall**
7 **apply in the same manner and to the**
8 **same extent to the liability established**
9 **under this subsection. For purposes of**
10 **this paragraph, the date referred to in**
11 **paragraph (1) shall be deemed the termi-**
12 **nation date.**

13 **“(4) LIABILITY OWED TO PLAN; TRANSFER**
14 **OF LIABILITY PAYMENTS TO THE ONGOING**
15 **PLAN WHERE COLLECTED BY THE CORPORA-**
16 **TION.—The liability established under this**
17 **subsection shall be owed to the plan, and**
18 **may be collected by either the plan or the**
19 **corporation. The corporation shall pay to**
20 **the plan any amounts collected by the**
21 **corporation in satisfaction of the liability**
22 **established under this subsection in con-**
23 **nection with such plan.**

1 **“(5) REGULATIONS.—The corporation**
2 **may prescribe regulations under this sub-**
3 **section, including—**

4 **“(A) rules governing—**

5 **“(i) the determination of**
6 **whether and when a liquidation**
7 **referred to in this subsection has**
8 **occurred, and**

9 **“(ii) the assignment of the**
10 **plan’s or corporation’s claim to li-**
11 **ability payments under this sub-**
12 **section to other members of the**
13 **controlled group as a means of**
14 **collecting such payments, subject**
15 **to the transfer of such payments**
16 **to the plan, and**

17 **“(B) rules providing alternative**
18 **arrangements for making liability**
19 **payments under this subsection.”**

20 **(b) CONFORMING AMENDMENT.—Section**
21 **4062(a) of such Act is amended—**

22 **(1) in paragraph (1), by striking “and”**
23 **after “subsection (b),”;**

1 **(2) in paragraph (2), by striking the**
2 **period after “subsection (c)” and insert-**
3 **ing ”, and”; and**

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

6 **“(3) liability to the plan, to the extent**
7 **provided in subsection (f).”**

8 **(c) COORDINATION WITH MINIMUM FUNDING**
9 **RULES.—**

10 **(1) ERISA.—Section 302(c) of the Em-**
11 **ployee Retirement Income Security Act of**
12 **1974 is amended by adding at the end the**
13 **following new paragraph:**

14 **“(13) TREATMENT OF LIABILITY ON LIQUIDA-**
15 **TION OF EMPLOYER.—Any amount paid to a**
16 **plan pursuant to section 4062(f)—**

17 **“(A) shall be treated as not contrib-**
18 **uted by the employer for purposes of sub-**
19 **section (b)(3)(A), and**

20 **“(B) shall be treated as a net experi-**
21 **ence gain of the plan under subsection**
22 **(b)(3)(B)(ii).”**

23 **(2) 1986 CODE.—Section 412(c) of the**
24 **Internal Revenue Code of 1986 is amend-**

1 ed by adding at the end the following
2 new paragraph:

3 “(13) TREATMENT OF LIABILITY ON LIQ-
4 UIDATION OF EMPLOYER.—Any amount paid
5 to a plan pursuant to section 4062(f) of
6 the Employee Retirement Income Secu-
7 rity Act of 1974—

8 “(A) shall be treated as not con-
9 tributed by the employer for pur-
10 poses of subsection (b)(3)(A), and

11 “(B) shall be treated as a net ex-
12 perience gain of the plan under sub-
13 section (b)(3)(B)(ii).”

14 (d) EFFECTIVE DATE.—The amendments
15 made by this section shall be effective for liq-
16 uidations initiated on or after the date of en-
17 actment of this Act.

18 SEC. 205. ENFORCEMENT OF MINIMUM FUNDING REQUIRE-
19 MENTS.

20 (a) IN GENERAL.—Paragraph (1) of section
21 4003(e) of the Employee Retirement Income
22 Security Act of 1974 (29 U.S.C. 1303(e)(1)) is
23 amended—

24 (1) by inserting “(A)” after “enforce”;
25 and

1 **(1) by striking subclause (I) and in-**
2 **serting the following new subclause:**

3 **“(I) it determines, based**
4 **on the notice sent under para-**
5 **graph (2)(A) of subsection (b),**
6 **that there is reason to believe**
7 **that the plan is not sufficient**
8 **for benefit liabilities,”;**

9 **(2) by striking the period at the end**
10 **of subclause (II) and inserting “, or”;** and

11 **(3) by adding at the end the following**
12 **new subclause:**

13 **“(III) it determines that**
14 **any other requirement of sub-**
15 **paragraph (A) or (B) of this**
16 **paragraph or of subsection**
17 **(a)(2) has not been met, unless**
18 **it further determines that the**
19 **issuance of such notice would**
20 **be inconsistent with the inter-**
21 **ests of participants and bene-**
22 **ficiaries.”**

23 **(b) EFFECTIVE DATE.—The amendments**
24 **made by this section shall apply to any plan**
25 **termination under section 4041(b) of the Em-**

1 **ployee Retirement Income Security Act of**
2 **1974 with respect to which the Pension Bene-**
3 **fit Guaranty Corporation has not, as of the**
4 **date of enactment of this Act, issued a notice**
5 **of noncompliance that has become final, or**
6 **otherwise issued a final determination that**
7 **the plan termination is nullified.**

8 **SEC. 207. PROHIBITION ON BENEFIT INCREASES WHERE**
9 **PLAN SPONSOR IS IN BANKRUPTCY.**

10 **(a) AMENDMENT TO THE EMPLOYEE RETIRE-**
11 **MENT INCOME SECURITY ACT OF 1974.—Section**
12 **204 of the Employee Retirement Income Secu-**
13 **rity Act of 1974 (29 U.S.C. 1054) is amended by**
14 **redesignating subsections (i) and (j) as sub-**
15 **sections (j) and (k), respectively, and by in-**
16 **serting after subsection (h) the following new**
17 **subsection:**

18 **“(i)(1) In the case of a plan described in**
19 **paragraph (3) which is maintained by an em-**
20 **ployer that is a debtor in a case under title**
21 **11, United States Code, or similar Federal or**
22 **State law, no amendment of the plan which**
23 **increases the liabilities of the plan by reason**
24 **of—**

25 **“(A) any increase in benefits,**

1 **“(B) any change in the accrual of ben-**
2 **efits, or**

3 **“(C) any change in the rate at which**
4 **benefits become nonforfeitable under the**
5 **plan,**

6 **with respect to employees of the debtor, shall**
7 **be effective prior to the effective date of such**
8 **employer’s plan of reorganization.**

9 **“(2) Paragraph (1) shall not apply to any**
10 **plan amendment that—**

11 **“(A) the Secretary of the Treasury de-**
12 **termines to be reasonable and that pro-**
13 **vides for only de minimis increases in the**
14 **liabilities of the plan with respect to em-**
15 **ployees of the debtor,**

16 **“(B) only repeals an amendment de-**
17 **scribed in section 302(c)(8),**

18 **“(C) is required as a condition of**
19 **qualification under part I of subchapter**
20 **D, of chapter 1, of the Internal Revenue**
21 **Code of 1986, or**

22 **“(D) was adopted prior to, or pursu-**
23 **ant to a collective bargaining agreement**
24 **entered into prior to, the date on which**
25 **the employer became a debtor in a case**

1 **under title 11, United States Code, or**
2 **similar Federal or State law.**

3 **“(3) This subsection shall apply only to**
4 **plans (other than multiemployer plans) cov-**
5 **ered under section 4021 of this Act for which**
6 **the funded current liability percentage (with-**
7 **in the meaning of section 302(d)(8) of this Act)**
8 **is less than 100 percent after taking into ac-**
9 **count the effect of the amendment.**

10 **“(4) For purposes of this subsection, ‘em-**
11 **ployer’ has the meaning set forth in section**
12 **302(c)(11)(A), without regard to section**
13 **302(c)(11)(B).”**

14 **(b) AMENDMENT TO INTERNAL REVENUE**
15 **CODE OF 1986.—Section 401(a) of the Internal**
16 **Revenue Code of 1986, as amended by section**
17 **121 of this Act, is further amended by adding**
18 **at the end the following new paragraph:**

19 **“(33) PROHIBITION ON BENEFIT IN-**
20 **CREASES WHILE SPONSOR IS IN BANK-**
21 **RUPTCY.—**

22 **“(A) IN GENERAL.—A trust which is**
23 **part of a plan to which this para-**
24 **graph applies shall not constitute a**
25 **qualified trust under this section if**

1 **an amendment to such plan is adopt-**
2 **ed while the employer is a debtor in**
3 **a case under title 11, United States**
4 **Code, or similar Federal or State law,**
5 **if such amendment increases liabil-**
6 **ities of the plan by reason of—**

7 **“(i) any increase in benefits,**

8 **“(ii) any change in the accrual**
9 **of benefits, or**

10 **“(iii) any change in the rate at**
11 **which benefits become nonforfeit-**
12 **able under the plan,**

13 **with respect to employees of the debt-**
14 **or, and such amendment is effective**
15 **prior to the effective date of such em-**
16 **ployer’s plan of reorganization.**

17 **“(B) EXCEPTIONS.—This paragraph**
18 **shall not apply to any plan amend-**
19 **ment if—**

20 **“(i) the plan, were such**
21 **amendment to take effect, would**
22 **have a funded current liability**
23 **percentage (as defined in section**
24 **412(l)(8)) of 100 percent or more,**

1 **“(ii) the Secretary determines**
2 **that such amendment is reason-**
3 **able and provides for only de**
4 **minimis increases in the liabil-**
5 **ities of the plan with respect to**
6 **employees of the debtor,**

7 **“(iii) such amendment only re-**
8 **peals an amendment described in**
9 **subsection 412(c)(8), or**

10 **“(iv) such amendment is re-**
11 **quired as a condition of qualifica-**
12 **tion under this part.**

13 **“(C) PLANS TO WHICH THIS PARA-**
14 **GRAPH APPLIES.—This paragraph shall**
15 **apply only to plans (other than multi-**
16 **employer plans) covered under sec-**
17 **tion 4021 of the Employee Retirement**
18 **Income Security Act of 1974.**

19 **“(D) EMPLOYER.—For purposes of**
20 **this paragraph, the term ‘employer’**
21 **means the employer referred to in**
22 **section 412(c)(11) (without regard to**
23 **subparagraph (B) thereof).”**

24 **(c) EFFECTIVE DATE OF PLAN AMENDMENT.—**
25 **Section 4022 of the Employee Retirement In-**

1 **come Security Act of 1974 (29 U.S.C. 1322) is**
2 **amended by inserting at the end the following**
3 **new subsection:**

4 **“(f) For purposes of this section, the effec-**
5 **tive date of a plan amendment described in**
6 **section 204(i)(1) shall be the effective date of**
7 **the plan of reorganization of the employer de-**
8 **scribed in section 204(i)(1) or, if later, the ef-**
9 **fective date stated in such amendment.”.**

10 **(d) EFFECTIVE DATE.—The amendments**
11 **made by this section shall apply to plan**
12 **amendments adopted on or after the date of**
13 **enactment of this Act.**

14 **SEC. 208. SUBSTANTIAL OWNER BENEFITS.**

15 **(a) MODIFICATION OF PHASE-IN OF GUARAN-**
16 **TEE.—Section 4022(b)(5) of the Employee Re-**
17 **tirement Income Security Act of 1974 is**
18 **amended by striking subparagraphs (B) and**
19 **(C) and inserting the following new subpara-**
20 **graphs:**

21 **“(B) For purposes of this title, the term**
22 **‘majority owner’ has the same meaning as the**
23 **term ‘substantial owner’, if ‘50 percent or**
24 **more’ is substituted for ‘more than 10 percent’**

1 wherever such phrase appears in subpara-
2 graph (A) of this paragraph.

3 “(C) In the case of a participant who is a
4 majority owner, the amount of benefits guar-
5 anteed under this section shall not exceed the
6 lesser of—

7 “(i) the amount otherwise determined
8 under this subsection, or

9 “(ii) the product of—

10 “(I) a fraction (not to exceed 1)
11 the numerator of which is the num-
12 ber of years from the later of the ef-
13 fective date or the adoption date of
14 the plan, and the denominator of
15 which is 30, and

16 “(II) the amount of the majority
17 owner’s monthly benefits guaranteed
18 under subsection (a) (as limited by
19 paragraph (3) of this subsection).”

20 (b) MODIFICATION OF ALLOCATION OF AS-
21 SETS.—

22 (1) Section 4044(a)(4)(B) of such Act
23 (29 U.S.C. 1344(a)(4)(B)) is amended by in-
24 serting “(C)” after “section 4022(b)(5)”.

1 **(2) Section 4044(b) of such Act is**
2 **amended—**

3 **(A) in paragraph (2), by inserting**
4 **“(4),” before “(5)”, and by inserting a**
5 **comma after “(5)”;**

6 **(B) by redesignating paragraphs**
7 **(3) through (6) as paragraphs (4)**
8 **through (7), respectively; and**

9 **(C) by inserting a new paragraph**
10 **(3) to read as follows:**

11 **“(3) If assets available for allocation**
12 **under paragraph (4) of subsection (a) are**
13 **insufficient to satisfy in full the benefits**
14 **of all individuals who are described in**
15 **that paragraph, the assets shall be allo-**
16 **cated first to benefits described in sub-**
17 **paragraph (A) of that paragraph. Any re-**
18 **maining assets shall then be allocated to**
19 **subparagraph (B). If assets allocated to**
20 **subparagraph (B) are insufficient to sat-**
21 **isfy in full the benefits in that subpara-**
22 **graph, the assets shall be allocated pro**
23 **rata among individuals on the basis of**
24 **the present value (as of the termination**

1 **date) of their respective benefits de-**
2 **scribed in that subparagraph.”.**

3 **(c) EFFECTIVE DATE.—The amendments**
4 **made by this section shall be effective for plan**
5 **terminations under section 4041(c) of the Em-**
6 **ployee Retirement Income Security Act of**
7 **1974 with respect to which notices of intent**
8 **to terminate are provided under section**
9 **4041(a)(2) of such Act, or under section 4042**
10 **of such Act with respect to which proceedings**
11 **are instituted by the corporation, on or after**
12 **the date of enactment of this Act.**

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

14 **(a) IN GENERAL.—Subparagraph (E) of sec-**
15 **tion 4006(a)(3) of the Employee Retirement In-**
16 **come Security Act of 1974 (29 U.S.C.**
17 **1306(a)(3)(E)) is amended by striking clause**
18 **(iv), and by redesignating clause (v) as clause**
19 **(iv).**

20 **(b) EFFECTIVE DATE.—The amendments**
21 **made by this section shall be effective on the**
22 **date of enactment of this Act, except that, for**
23 **plan years beginning on or after July 1, 1994**
24 **and before July 1, 1996, the additional pre-**
25 **mium payable with respect to any participant**

1 **by reason of this amendment shall not exceed**
 2 **the sum of—**

3 **(1) \$53, and**

4 **(2) the product derived by multiply-**
 5 **ing—**

6 **(A) the excess (if any) of—**

7 **(i) the amount determined**
 8 **under clause (i) of section**
 9 **4006(a)(3)(E) of the Employee Re-**
 10 **tirement Income Security Act of**
 11 **1974, over**

12 **(ii) \$53, by**

13 **(B) the applicable percentage.**

14 **For purposes of this subsection, the ap-**
 15 **plicable percentage shall be the percent-**
 16 **age specified in the following table:**

For the plan year beginning:		The applica- ble percent- age is:
on or after	but before	
July 1, 1994	July 1, 1995	20 percent
July 1, 1995	July 1, 1996	60 percent

17 **TITLE III—PARTICIPANT**
 18 **SERVICES**

19 **SEC. 301. DISCLOSURE TO PARTICIPANTS.**

20 **(a) PARTICIPANT NOTICE REQUIREMENT.—**

21 **Subtitle A of title IV of the Employee Retire-**
 22 **ment Income Security Act of 1974 (as amend-**

1 ed by section 203 of this Act) is further
2 amended by adding at the end the following
3 new section:

4 “SEC. 4011. NOTICE TO PARTICIPANTS.

5 “(a) IN GENERAL.—The plan administrator
6 of a plan subject to the additional premium
7 under section 4006(a)(3)(E) shall provide, in a
8 form and manner and at such time as pre-
9 scribed in regulations of the corporation, no-
10 tice to plan participants and beneficiaries and
11 each employee organization representing par-
12 ticipants in the plan of the plan’s funding sta-
13 tus and the limits on the corporation’s guar-
14 anty under section 4022(b) should the plan
15 terminate while underfunded. Such notice
16 shall be written in a manner so as to be under-
17 stood by the average plan participant.

18 “(b) EXCEPTION.—Subsection (a) shall not
19 apply to any plan which for the plan year has
20 a funded current liability percentage (as de-
21 fined in section 302(d)(8) without regard to
22 subparagraph (E) thereof) of at least 90 per-
23 cent.”

24 (b) CONFORMING AMENDMENTS.—

1 **(1) INFORMATION INCLUDED IN ANNUAL**
2 **REPORT.—Section 103(d)(11) of such Act**
3 **(29 U.S.C. 1023(d)(11)) is amended to read**
4 **as follows:**

5 **“(11) In the case of a plan which must**
6 **notify participants and beneficiaries**
7 **under section 4011, the funded current li-**
8 **ability percentage, as determined for pur-**
9 **poses of such section.”**

10 **(2) INFORMATION FURNISHED TO PAR-**
11 **TICIPANTS.—Section 104(b)(3) of such Act**
12 **(29 U.S.C. 1024(b)(3)) is amended by strik-**
13 **ing “(including the percentage deter-**
14 **mined under section 103(d)(11))”.**

15 **(c) CLERICAL AMENDMENT.—The table of**
16 **contents contained in section 1 of such Act is**
17 **amended by inserting after the item relating**
18 **to section 4010 (as added by section 203 of this**
19 **Act) the following new item:**

“Sec. 4011. Notice to participants.”

20 **(d) EFFECTIVE DATE.—The amendment**
21 **made by this section shall be effective for plan**
22 **years beginning after the date of enactment of**
23 **this Act.**

1 **SEC. 302. MISSING PARTICIPANTS.**

2 **(a) IN GENERAL.—**Subtitle C of title IV of
3 **the Employee Retirement Income Security**
4 **Act of 1974 (29 U.S.C. 1341 et seq.) (as amend-**
5 **ed by section 202(a) of this Act) is further**
6 **amended by adding at the end the following**
7 **new section:**

8 **“MISSING PARTICIPANTS**

9 **“SEC. 4051. (a) GENERAL RULE.—**

10 **“(1) PAYMENT TO THE CORPORATION.—A**
11 **plan administrator satisfies section**
12 **4041(b)(3)(A) in the case of a missing par-**
13 **ticipant only if the plan administrator—**

14 **“(A) transfers the participant’s**
15 **designated benefit to the corporation**
16 **or purchases an irrevocable commit-**
17 **ment from an insurer in accordance**
18 **with clause (i) of section**
19 **4041(b)(3)(A), and**

20 **“(B) provides the corporation**
21 **such information and certifications**
22 **with respect to such designated bene-**
23 **fits or irrevocable commitments as**
24 **the corporation shall specify.**

25 **“(2) TREATMENT OF TRANSFERRED AS-**
26 **SETS.—A transfer to the corporation**

1 **under this section shall be treated as a**
2 **transfer of assets from a terminated plan**
3 **to the corporation as trustee, and shall be**
4 **held with assets of terminated plans for**
5 **which the corporation is trustee under**
6 **section 4042, subject to the rules set forth**
7 **in that section.**

8 **“(3) PAYMENT BY THE CORPORATION.—**
9 **After a missing participant whose des-**
10 **ignated benefit was transferred to the**
11 **corporation is located—**

12 **“(A) in any case in which the plan**
13 **could have distributed the benefit of**
14 **the missing participant in a single**
15 **sum without participant or spousal**
16 **consent under section 205(g), the cor-**
17 **poration shall pay the participant or**
18 **beneficiary a single sum benefit equal**
19 **to the designated benefit paid the**
20 **corporation plus interest as specified**
21 **by the corporation, and**

22 **“(B) in any other case, the cor-**
23 **poration shall pay a benefit based on**
24 **the designated benefit and the as-**
25 **sumptions prescribed by the corpora-**

1 **tion at the time that the corporation**
2 **received the designated benefit.**

3 **The corporation shall make payments**
4 **under subparagraph (B) available in the**
5 **same forms and at the same times as a**
6 **guaranteed benefit under section 4022**
7 **would be available to be paid, except that**
8 **the corporation may make a benefit**
9 **available in the form of a single sum if**
10 **the plan provided a single sum benefit**
11 **(other than a single sum described in**
12 **subsection (b)(2)(A)).**

13 **“(b) DEFINITIONS.—For purposes of this**
14 **section—**

15 **“(1) MISSING PARTICIPANT.—The term**
16 **‘missing participant’ means a participant**
17 **or beneficiary under a terminating plan**
18 **whom the plan administrator cannot lo-**
19 **cate after a diligent search.**

20 **“(2) DESIGNATED BENEFIT.—The term**
21 **‘designated benefit’ means the single sum**
22 **benefit the participant would receive—**

23 **“(A) under the plan’s assump-**
24 **tions, in the case of a distribution**
25 **that can be made without participant**

1 **or spousal consent under section**
2 **205(g);**

3 **“(B) under the assumptions of the**
4 **corporation in effect on the date that**
5 **the designated benefit is transferred**
6 **to the corporation, in the case of a**
7 **plan that does not pay any single**
8 **sums other than those described in**
9 **subparagraph (A); or**

10 **“(C) under the assumptions of the**
11 **corporation or of the plan, whichever**
12 **provides the higher single sum, in the**
13 **case of a plan that pays a single sum**
14 **other than those described in sub-**
15 **paragraph (A).**

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

23 **(b) CONFORMING TITLE IV AMENDMENTS.—**

24 **(1) AMENDMENT TO SECTION 4003.—Sec-**
25 **tion 4003(a) of such Act (29 U.S.C. 1303(a))**

1 **is amended in the second sentence by in-**
2 **serting before the period the following:**
3 **“and whether section 4051(a) has been**
4 **satisfied”.**

5 **(2) AMENDMENT TO SECTION 4005.—Sec-**
6 **tion 4005(b)(2)(A) of such Act (29 U.S.C.**
7 **1305(b)(2)(A)) is amended by inserting “or**
8 **benefits payable under section 4051”**
9 **after “section 4022A”.**

10 **(3) AMENDMENT TO SECTION 4041.—Sec-**
11 **tion 4041(b)(3)(A)(ii) of such Act (29**
12 **U.S.C. 1341(b)(3)(A)(ii)) is amended by**
13 **adding at the end the following new sen-**
14 **tence: “A transfer of assets to the cor-**
15 **poration in accordance with section 4051**
16 **on behalf of a missing participant shall**
17 **satisfy this subparagraph with respect to**
18 **such participant.”**

19 **(c) CONFORMING ERISA AMENDMENTS.—**

20 **(1) The table of contents contained in**
21 **section 1 of the Employee Retirement In-**
22 **come Security Act of 1974 is amended by**
23 **inserting after the item related to section**
24 **4050 (as added by section 202 of this Act)**
25 **the following new item:**

“Sec. 4051. Missing participants.”

1 **(2) Section 206 of such Act (29 U.S.C.**
2 **1056) (as amended by section**
3 **101(a)(9)(B)(i) of this Act) is further**
4 **amended by adding at the end the follow-**
5 **ing new subsection:**

6 **“(f) MISSING PARTICIPANTS IN TERMINATED**
7 **PLANS.—In the case of a plan covered by title**
8 **IV, the plan shall provide that, upon termi-**
9 **nation of the plan, benefits of missing partici-**
10 **pants shall be treated in accordance with sec-**
11 **tion 4051.”**

12 **(d) CONFORMING INTERNAL REVENUE CODE**
13 **AMENDMENTS.—Section 401(a) of the Internal**
14 **Revenue Code of 1986, as amended by section**
15 **207 of this Act, is further amended by insert-**
16 **ing after paragraph (33) the following new**
17 **paragraph:**

18 **“(34) BENEFITS OF MISSING PARTICI-**
19 **PANTS ON PLAN TERMINATION.—In the case**
20 **of a plan covered by title IV of the Em-**
21 **ployee Retirement Income Security Act of**
22 **1974, a trust forming part of such plan**
23 **shall not be treated as failing to con-**
24 **stitute a qualified trust under this sec-**
25 **tion merely because the pension plan of**

1 **which such trust is a part, upon its termi-**
2 **nation, transfers benefits of missing par-**
3 **ticipants to the Pension Benefit Guaranty**
4 **Corporation in accordance with section**
5 **4051 of such Act.”**

6 **(e) EFFECTIVE DATE.—The provisions of**
7 **this section shall be effective with respect to**
8 **distributions that occur in plan years com-**
9 **mencing after final regulations implementing**
10 **these provisions are prescribed by the Pen-**
11 **sion Benefit Guaranty Corporation.**

12 **SEC. 303. MODIFICATION OF MAXIMUM GUARANTEE FOR**
13 **DISABILITY BENEFITS.**

14 **(a) IN GENERAL.—Section 4022(b)(3) of the**
15 **Employee Retirement Income Security Act of**
16 **1974 (29 U.S.C. 1322(b)(3)) is amended by add-**
17 **ing at the end the following new sentences:**
18 **“The maximum guaranteed monthly benefit**
19 **shall not be reduced solely on account of the**
20 **age of a participant in the case of a benefit**
21 **payable by reason of disability that occurred**
22 **on or before the termination date, if the par-**
23 **ticipant demonstrates to the satisfaction of**
24 **the corporation that the Social Security Ad-**
25 **ministration has determined that the partici-**

1 **part** satisfies the definition of disability
2 **under titles II and XVI of the Social Security**
3 **Act, and the regulations thereunder. If a bene-**
4 **fit payable by reason of disability is converted**
5 **to an early or normal retirement benefit for**
6 **reasons other than a change in the health of**
7 **the participant, such early or normal retire-**
8 **ment benefit shall be treated as a continu-**
9 **ation of the benefit payable by reason of dis-**
10 **ability and this subparagraph shall continue**
11 **to apply.”**

12 **(b) EFFECTIVE DATE.—The amendment**
13 **made by this section shall be effective for plan**
14 **terminations under section 4041(c) of the Em-**
15 **ployee Retirement Income Security Act of**
16 **1974 with respect to which notices of intent**
17 **to terminate are provided under section**
18 **4041(a)(2) of such Act, or under section 4042**
19 **of such Act with respect to which proceedings**
20 **are instituted by the corporation, on or after**
21 **the date of enactment of this Act.**

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

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

4 **(a) IN GENERAL.—Section 404(g)(4) of the**
5 **Internal Revenue Code of 1986 is amended by**
6 **striking “the Single Employer Pension Plan**
7 **Amendments Act of 1986” and inserting “the**
8 **Retirement Protection Act of 1994”.**

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

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

13 **(a) IN GENERAL.—Paragraph (13) of section**
14 **4001(a) of the Employee Retirement Income**
15 **Security Act of 1974 (29 U.S.C. 1301(a)(13)) is**
16 **amended by striking “means a person—” and**
17 **all that follows and inserting “means a person**
18 **described in section 302(c)(11)(A) of this Act**
19 **(without regard to section 302(c)(11)(B) of this**
20 **Act) or section 412(c)(11)(A) of the Internal**
21 **Revenue Code of 1986 (without regard to sec-**
22 **tion 412(c)(11)(B) of such Code);”**

23 **(b) EFFECTIVE DATE.—The amendment**
24 **made by this section shall be effective as if in-**
25 **cluded in the Pension Protection Act.**

1 **SEC. 403. TECHNICAL CORRECTIONS.**

2 **(a) PRIOR PLAN TERMINATIONS TAKEN INTO**
3 **ACCOUNT IN APPLYING RECOVERY RATIO.—Sec-**
4 **tion 4022(c)(3)(B)(ii) of the Employee Retire-**
5 **ment Income Security Act of 1974 (29 U.S.C.**
6 **1322(c)(3)(B)(ii)) is amended to read as fol-**
7 **lows:**

8 **“(ii) notices of intent to terminate**
9 **were provided, or proceedings were insti-**
10 **tuted under section 4042, after December**
11 **17, 1987, and during the first 5 fiscal**
12 **years of the 7-fiscal-year period ending**
13 **with the fiscal year preceding the fiscal**
14 **year for which the recovery ratio is being**
15 **determined.”**

16 **(b) CLARIFICATION UNDER DISTRESS TERMI-**
17 **NATION RULES OF DATE FOR DETERMINATIONS**
18 **RELATING TO SUBSEQUENT INSUFFICIENCY.—Sec-**
19 **tion 4022(c) of such Act (29 U.S.C. 1322(c)) is**
20 **amended by adding at the end the following**
21 **new subsection:**

22 **“(5) For purposes of this subsection, in the**
23 **case of a plan described in section**
24 **4041(c)(3)(C)(ii), the outstanding amount of**
25 **benefit liabilities and the value of the recover-**
26 **ies of the corporation under section 4062,**

1 **4063, or 4064 in connection with such plan**
2 **shall be determined as of the date described**
3 **in section 4062(b)(1)(B).”.**

4 **(c) INCLUSION OF TERMINATION PROCEED-**
5 **INGS INSTITUTED BY CORPORATION IN TRANSI-**
6 **TIONAL RULE.—Section 9312(b)(3)(B)(i) of the**
7 **Omnibus Budget Reconciliation Act of 1987**
8 **(101 Stat. 1330–363) is amended by inserting**
9 **after “notices of intent to terminate were pro-**
10 **vided” the following: “, or proceedings were**
11 **instituted under section 4042 of ERISA,”.**

12 **(d) CLARIFICATION OF PERIOD.—Section**
13 **4044(c) of the Employee Retirement Income**
14 **Security Act of 1974 (29 U.S.C. 1344(c)) is**
15 **amended in the first sentence—**

16 **(1) by striking “the later of (1)”;**

17 **(2) by striking “or (2)” and inserting**
18 **“and ending on”;**

19 **(3) by striking “is to be” and inserting**
20 **“shall be”; and**

21 **(4) by striking “in any other case”**
22 **and inserting “(in any other case)”.**

23 **(e) EFFECTIVE DATE.—The amendments**
24 **made by this section shall be effective as if in-**

1 **cluded in section 9312 of the Pension Protec-**
2 **tion Act (101 Stat. 1330–361).**

3 **SEC. 404. DISTRESS TERMINATION CRITERIA FOR BANKING**
4 **INSTITUTIONS.**

5 **(a) CLARIFICATION OF DISTRESS CRI-**
6 **TERION.—Subclause (I) of section**
7 **4041(c)(2)(B)(i) of the Employee Retirement**
8 **Income Security Act of 1974 (29 U.S.C.**
9 **1341(c)(2)(B)(i)(I)) is amended by inserting**
10 **after “under any similar” the following: “Fed-**
11 **eral law or”.**

12 **(b) EFFECTIVE DATE.—The amendment**
13 **made by this section shall be effective as if in-**
14 **cluded in the Single Employer Pension Plan**
15 **Amendments Act of 1986.**

16 **SEC. 405. SINGLE SUM DISTRIBUTIONS.**

17 **(a) AMENDMENTS TO EMPLOYEE RETIREMENT**
18 **INCOME SECURITY ACT OF 1974.—**

19 **(1) DETERMINATION OF PRESENT VALUE**
20 **FOR PURPOSES OF RESTRICTIONS ON MANDA-**
21 **TORY DISTRIBUTIONS.—Section 203(e)(2) of**
22 **the Employee Retirement Income Secu-**
23 **urity Act of 1974 (29 U.S.C. 1053(e)(2)) is**
24 **amended to read as follows:**

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

4 **(2) DETERMINATION OF PRESENT VALUE**
5 **FOR PURPOSES OF RESTRICTIONS ON CASH-**
6 **OUTS.—Section 205(g)(3) of such Act (29**
7 **U.S.C. 1055(g)(3)) is amended to read as**
8 **follows:**

9 **“(3) DETERMINATION OF PRESENT VALUE.—**

10 **“(A) IN GENERAL.—**

11 **“(i) PRESENT VALUE.—Except as**
12 **provided in subparagraph (B), for**
13 **purposes of paragraphs (1) and (2),**
14 **the present value shall not be less**
15 **than the present value calculated by**
16 **using the applicable mortality table**
17 **and the applicable interest rate.**

18 **“(ii) DEFINITIONS.—For purposes**
19 **of clause (i)—**

20 **“(I) APPLICABLE MORTALITY**
21 **TABLE.—The term ‘applicable mor-**
22 **tality table’ means the table pre-**
23 **scribed by the Secretary of the**
24 **Treasury. Such table shall be**
25 **based on the prevailing commis-**

1 **sioners' standard table (described**
2 **in section 807(d)(5)(A) of the In-**
3 **ternal Revenue Code of 1986)**
4 **used to determine reserves for**
5 **group annuity contracts issued on**
6 **the date as of which present**
7 **value is being determined (with-**
8 **out regard to any other subpara-**
9 **graph of section 807(d)(5) of such**
10 **Code).**

11 **“(II) APPLICABLE INTEREST**
12 **RATE.—The term ‘applicable inter-**
13 **est rate’ means the annual rate of**
14 **interest on 30-year Treasury secu-**
15 **rities for the month before the**
16 **date of distribution or such other**
17 **time as the Secretary of the**
18 **Treasury may by regulations pre-**
19 **scribe.**

20 **“(B) EXCEPTION.—In the case of a dis-**
21 **tribution from a plan that was adopted**
22 **and in effect prior to the date of the en-**
23 **actment of the Retirement Protection Act**
24 **of 1994, the present value of any distribu-**
25 **tion made before the earlier of—**

1 “(i) the later of when a plan
2 amendment applying subparagraph
3 (A) is adopted or made effective, or

4 “(ii) the first day of the first plan
5 year beginning after December 31,
6 1999,

7 shall be calculated, for purposes of para-
8 graphs (1) and (2), using the interest
9 rates determined under the regulations
10 of the Pension Benefit Guaranty Corpora-
11 tion for determining the present value of
12 a lump sum distribution on plan termi-
13 nation that were in effect on September
14 1, 1993, and using the provisions of the
15 plan as in effect on the day before the
16 date of the enactment of the Retirement
17 Protection Act of 1994; but only if such
18 provisions of the plan met the require-
19 ments of section 205(g)(3) as in effect on
20 the day before such date of enactment.”

21 **(b) AMENDMENTS TO INTERNAL REVENUE**
22 **CODE OF 1986 RELATING TO MINIMUM BENE-**
23 **FITS.—**

24 **(1) DETERMINATION OF PRESENT VALUE**
25 **FOR PURPOSES OF RESTRICTIONS ON MANDA-**

1 **TORY DISTRIBUTIONS.—Subparagraph (B)**
2 **of section 411(a)(11) of the Internal Reve-**
3 **nue Code of 1986 is amended to read as**
4 **follows:**

5 **“(B) DETERMINATION OF PRESENT**
6 **VALUE.—For purposes of subpara-**
7 **graph (A), the present value shall be**
8 **calculated in accordance with section**
9 **417(e)(3).”**

10 **(2) DETERMINATION OF PRESENT VALUE**
11 **FOR PURPOSES OF RESTRICTIONS ON CASH-**
12 **OUTS.—Paragraph (3) of section 417(e) of**
13 **such Code is amended to read as follows:**

14 **“(3) DETERMINATION OF PRESENT**
15 **VALUE.—**

16 **“(A) IN GENERAL.—**

17 **“(i) PRESENT VALUE.—Except**
18 **as provided in subparagraph (B),**
19 **for purposes of paragraphs (1)**
20 **and (2), the present value shall**
21 **not be less than the present value**
22 **calculated by using the applicable**
23 **mortality table and the applicable**
24 **interest rate.**

1 **“(ii) DEFINITIONS.—For pur-**
2 **poses of clause (i)—**

3 **“(I) APPLICABLE MORTALITY**
4 **TABLE.—The term ‘applicable**
5 **mortality table’ means the**
6 **table prescribed by the Sec-**
7 **retary. Such table shall be**
8 **based on the prevailing com-**
9 **missioners’ standard table**
10 **(described in section**
11 **807(d)(5)(A)) used to deter-**
12 **mine reserves for group annu-**
13 **ity contracts issued on the**
14 **date as of which present value**
15 **is being determined (without**
16 **regard to any other subpara-**
17 **graph of section 807(d)(5)).**

18 **“(II) APPLICABLE INTEREST**
19 **RATE.—The term ‘applicable**
20 **interest rate’ means the an-**
21 **nuual rate of interest on 30-**
22 **year Treasury securities for**
23 **the month before the date of**
24 **distribution or such other**

1 **time as the Secretary may by**
2 **regulations prescribe.**

3 **“(B) EXCEPTION.—In the case of a**
4 **distribution from a plan that was**
5 **adopted and in effect before the date**
6 **of the enactment of the Retirement**
7 **Protection Act of 1994, the present**
8 **value of any distribution made before**
9 **the earlier of—**

10 **“(i) the later of the date a plan**
11 **amendment applying subpara-**
12 **graph (A) is adopted or made ef-**
13 **fective, or**

14 **“(ii) the first day of the first**
15 **plan year beginning after Decem-**
16 **ber 31, 1999,**

17 **shall be calculated, for purposes of**
18 **paragraphs (1) and (2), using the in-**
19 **terest rates determined under the**
20 **regulations of the Pension Benefit**
21 **Guaranty Corporation for determin-**
22 **ing the present value of a lump sum**
23 **distribution on plan termination that**
24 **were in effect on September 1, 1993,**
25 **and using the provisions of the plan**

1 **as in effect on the day before the date**
2 **of the enactment of the Retirement**
3 **Protection Act of 1994; but only if**
4 **such provisions of the plan met the**
5 **requirements of section 417(e)(3) as in**
6 **effect on the day before such date of**
7 **enactment.”**

8 **(c) AMENDMENTS TO INTERNAL REVENUE**
9 **CODE OF 1986 RELATING TO MAXIMUM BENE-**
10 **FITS.—Subparagraph (E) of section 415(b)(2) of**
11 **such Code is amended—**

12 **(1) by redesignating clauses (ii) and**
13 **(iii) as clauses (iii) and (iv), respectively,**

14 **(2) by striking clause (i) and inserting**
15 **the following new clauses:**

16 **“(i) Except as provided in**
17 **clause (ii), for purposes of adjust-**
18 **ing any benefit or limitation**
19 **under subparagraph (B) or (C),**
20 **the interest rate assumption shall**
21 **not be less than the greater of 5**
22 **percent or the rate specified in**
23 **the plan.**

24 **“(ii) For purposes of adjusting**
25 **the benefit or limitation of any**

1 form of benefit subject to section
2 417(e)(3), the applicable interest
3 rate (as defined in section
4 417(e)(3)) shall be substituted for
5 ‘5 percent’ in clause (i).”, and

6 (3) by adding at the end the following
7 new clause:

8 “(v) For purposes of adjusting
9 any benefit or limitation under
10 subparagraph (B), (C), or (D), the
11 mortality table used shall be the
12 table prescribed by the Secretary.
13 Such table shall be based on the
14 prevailing commissioners’ stand-
15 ard table (described in section
16 807(d)(5)(A)) used to determine
17 reserves for group annuity con-
18 tracts issued on the date the ad-
19 justment is being made (without
20 regard to any other subparagraph
21 of section 807(d)(5)).”

22 (d) EFFECTIVE DATE.—

23 (1) IN GENERAL.—The amendments
24 made by this section shall apply to plan
25 years and limitation years beginning

1 **after December 31, 1994; except that an**
2 **employer may elect to treat the amend-**
3 **ments made by this section as being ef-**
4 **fective on or after the date of enactment.**

5 **(2) NO REDUCTION IN ACCRUED BENE-**
6 **FITS.—A participant’s accrued benefit**
7 **shall not be considered to be reduced in**
8 **violation of section 411(d)(6) of the Inter-**
9 **nal Revenue Code of 1986 or section**
10 **204(g) of the Employee Retirement In-**
11 **come Security Act of 1974 merely because**
12 **(A) the benefit is determined in accord-**
13 **ance with section 417(e)(3)(A) of such**
14 **Code, as amended by this Act, or section**
15 **205(g)(3) of the Employee Retirement In-**
16 **come Security Act of 1974, as amended by**
17 **this Act, or (B) the plan applies section**
18 **415(b)(2)(E) of such Code, as amended by**
19 **this Act.**

20 **(3) SECTION 415.—**

21 **(A) NO REDUCTION REQUIRED.—An**
22 **accrued benefit shall not be required**
23 **to be reduced below the accrued ben-**
24 **efit as of the last day of the last plan**
25 **year beginning before January 1,**

1 **1995, merely because of the amend-**
2 **ments made by subsection (b).**

3 **(B) TIMING OF PLAN AMENDMENT.—**

4 **A plan that operates in accordance**
5 **with the amendments made by sub-**
6 **section (b) shall not be treated as fail-**
7 **ing to satisfy section 401(a) of the In-**
8 **ternal Revenue Code of 1986 or as not**
9 **being operated in accordance with**
10 **the provisions of the plan until such**
11 **date as the Secretary of the Treasury**
12 **provides merely because the plan has**
13 **not been amended to include the**
14 **amendments made by subsection (b).**

15 **SEC. 406. ADJUSTMENTS TO LIEN FOR MISSED MINIMUM**
16 **FUNDING CONTRIBUTIONS.**

17 **(a) AMENDMENTS TO THE EMPLOYEE RETIRE-**
18 **MENT INCOME SECURITY ACT OF 1974.—**

19 **(1) CLARIFICATION OF APPLICABILITY OF**
20 **PROVISION.—Section 302(f)(1) of the Em-**
21 **ployee Retirement Income Security Act of**
22 **1974 (29 U.S.C. 1082(f)(1)) is amended by**
23 **striking “to which this section applies”**
24 **and inserting “covered under section**
25 **4021 of this Act”.**

1 **(2) REPEAL OF \$1,000,000 OFFSET.—Para-**
2 **graph (3) of section 302(f) of such Act is**
3 **amended to read as follows:**

4 **“(3) AMOUNT OF LIEN.—For purposes of**
5 **paragraph (1), the amount of the lien**
6 **shall be equal to the aggregate unpaid**
7 **balance of required installments and**
8 **other payments required under this sec-**
9 **tion (including interest)—**

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

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

14 **(3) REPEAL OF 60-DAY DELAY.—Section**
15 **302(f)(4)(B) of such Act is amended by**
16 **striking “60th day following the”.**

17 **(b) AMENDMENTS TO THE INTERNAL REVENUE**
18 **CODE OF 1986.—**

19 **(1) CLARIFICATION OF APPLICABILITY OF**
20 **PROVISION.—Paragraph (2) of section**
21 **412(n) of the Internal Revenue Code of**
22 **1986 is amended by adding at the end the**
23 **following new sentence: “This subsection**
24 **shall not apply to any plan to which sec-**
25 **tion 4021 of the Employee Retirement In-**

1 **come Security Act of 1974 does not apply**
2 **(as such section is in effect on the date of**
3 **the enactment of the Retirement Protec-**
4 **tion Act of 1994).”.**

5 **(2) REPEAL OF \$1,000,000 OFFSET.—Para-**
6 **graph (3) of section 412(n) of such Code is**
7 **amended to read as follows:**

8 **“(3) AMOUNT OF LIEN.—For purposes of**
9 **paragraph (1), the amount of the lien**
10 **shall be equal to the aggregate unpaid**
11 **balance of required installments and**
12 **other payments required under this sec-**
13 **tion (including interest)—**

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

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

18 **(3) REPEAL OF 60-DAY DELAY.—Section**
19 **412(n)(4)(B) of such Code is amended by**
20 **striking “60th day following the”.**

21 **(c) EFFECTIVE DATE.—The amendments**
22 **made by this section shall be effective for in-**
23 **stallments and other payments required**
24 **under section 412 of the Internal Revenue**
25 **Code of 1986 or under part 3 of subtitle B of**

1 **title I of the Employee Retirement Income Se-**
2 **curity Act of 1974 that become due on or after**
3 **the date of enactment.**

4 **SEC. 407. ROUNDING RULES FOR COST-OF-LIVING ADJUST-**
5 **MENTS.**

6 **(a) COST-OF-LIVING ADJUSTMENT FOR COM-**
7 **PENSATION LIMIT.—Section 401(a)(17)(B) of the**
8 **Internal Revenue Code of 1986 is amended to**
9 **read as follows:**

10 **“(B) COST-OF-LIVING ADJUSTMENT.—**
11 **The Secretary shall adjust annually**
12 **the \$150,000 amount in subparagraph**
13 **(A) for increases in the cost-of-living**
14 **at the same time and in the same**
15 **manner as adjustments under section**
16 **415(d); except that the base period**
17 **shall be the calendar quarter begin-**
18 **ning October 1, 1993, and any in-**
19 **crease which is not a multiple of**
20 **\$10,000 shall be rounded to the next**
21 **lowest multiple of \$10,000.”**

22 **(b) COST-OF-LIVING ADJUSTMENT FOR MAXI-**
23 **MUM DEFINED BENEFIT AMOUNT AND MAXIMUM**
24 **ANNUAL ADDITION.—**

1 **(1) IN GENERAL.—Section 415(d) of**
2 **such Code is amended to read as follows:**

3 **“(d) COST-OF-LIVING ADJUSTMENTS.—**

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

6 **“(A) the \$90,000 amount in sub-**
7 **section (b)(1)(A),**

8 **“(B) in the case of a participant**
9 **who separated from service, the**
10 **amount taken into account under**
11 **subsection (b)(1)(B), and**

12 **“(C) the \$30,000 amount in sub-**
13 **section (c)(1)(A),**

14 **for increases in the cost-of-living in ac-**
15 **cordance with regulations prescribed by**
16 **the Secretary.**

17 **“(2) METHOD.—The regulations pre-**
18 **scribed under paragraph (1) shall provide**
19 **for—**

20 **“(A) an adjustment with respect**
21 **to any calendar year based on the in-**
22 **crease in the applicable index for the**
23 **calendar quarter ending September**
24 **30 of the preceding calendar year**

1 **over such index for the base period,**
2 **and**

3 **“(B) adjustment procedures which**
4 **are similar to the procedures used to**
5 **adjust benefit amounts under section**
6 **215(i)(2)(A) of the Social Security Act.**

7 **“(3) BASE PERIOD.—For purposes of**
8 **paragraph (2)—**

9 **“(A) \$90,000 AMOUNT.—The base**
10 **period taken into account for pur-**
11 **poses of paragraph (1)(A) is the cal-**
12 **endar quarter beginning October 1,**
13 **1986.**

14 **“(B) SEPARATIONS AFTER DECEMBER**
15 **31, 1994.—The base period taken into**
16 **account for purposes of paragraph**
17 **(1)(B) with respect to individuals sep-**
18 **arating from service with the em-**
19 **ployer after December 31, 1994, is the**
20 **calendar quarter beginning July 1 of**
21 **the calendar year preceding the cal-**
22 **endar year in which such separation**
23 **occurs.**

24 **“(C) SEPARATIONS BEFORE JANUARY**
25 **1, 1995.—The base period taken into**

1 **account for purposes of paragraph**
2 **(1)(B) with respect to individuals sep-**
3 **arating from service with the em-**
4 **ployer before January 1, 1995, is the**
5 **calendar quarter beginning October 1**
6 **of the calendar year preceding the**
7 **calendar year in which such separa-**
8 **tion occurs.**

9 **“(D) \$30,000 AMOUNT.—The base**
10 **period taken into account for pur-**
11 **poses of paragraph (1)(C) is the cal-**
12 **endar quarter beginning October 1,**
13 **1993.**

14 **“(4) ROUNDING.—Any increase under**
15 **subparagraph (A) or (C) of paragraph (1)**
16 **which is not a multiple of \$5,000 shall be**
17 **rounded to the next lowest multiple of**
18 **\$5,000.”**

19 **(2) CONFORMING AMENDMENT.—Section**
20 **415(c)(1)(A) of such Code is amended by**
21 **striking “(or, if greater, ¼ of the dollar**
22 **limitation in effect under subsection**
23 **(b)(1)(A))”.**

24 **(c) COST-OF-LIVING ADJUSTMENT FOR MAXI-**
25 **MUM SALARY DEFERRAL.—Section 402(g)(5) of**

1 such Code is amended by inserting before the
2 period “; except that any increase under this
3 paragraph which is not a multiple of \$500
4 shall be rounded to the next lowest multiple
5 of \$500”.

6 (d) COST-OF-LIVING ADJUSTMENT FOR ELIGI-
7 BILITY FOR SIMPLIFIED EMPLOYEE PENSIONS.—
8 Section 408(k)(8) of such Code is amended by
9 inserting before the period “; except that any
10 increase in the \$300 amount which is not a
11 multiple of \$50 shall be rounded to the next
12 lowest multiple of \$50”.

13 (e) EFFECTIVE DATE.—The amendments
14 made by this section shall apply to years be-
15 ginning after December 31, 1994.

16 SEC. 408. FUNDING OF RESTORED PLANS.

17 Any changes made by this Act to section
18 412 of the Internal Revenue Code of 1986 or
19 to part 3 of subtitle B of title I of the Employee
20 Retirement Income Security Act of 1974 shall
21 not apply to a plan which is, on the date of
22 enactment of this Act, subject to a restoration
23 payment schedule order issued by the Pen-
24 sion Benefit Guaranty Corporation that meets

1 **the requirements of section 1.412(c)(1)–3 of**
2 **the Treasury Regulations.**

3 **SEC. 409. STUDY OF FUNDING STATUS OF FEDERAL, STATE,**
4 **AND LOCAL GOVERNMENT PENSION PLANS.**

5 **(a) IN GENERAL.—The Comptroller General**
6 **shall conduct a study of the underfunding of**
7 **Federal, State, and local government pension**
8 **plans. Such study shall address the causes**
9 **and implications of such underfunding, as**
10 **well as the feasibility of requiring such plans**
11 **to comply with funding, reporting, and disclo-**
12 **sure requirements imposed by Federal law on**
13 **private pension plans.**

14 **(b) REPORT.—The report of such study**
15 **shall be submitted not later than one year**
16 **after the date of the enactment of this Act to**
17 **the Committee on Education and Labor, the**
18 **Committee on Post Office and Civil Service,**
19 **and the Committee on Ways and Means of the**
20 **House of Representatives and the Committee**
21 **on Labor and Human Resources, the Commit-**
22 **tee on Government Affairs, and the Commit-**
23 **tee on Finance of the Senate.**

1 **TITLE V—EFFECTIVE DATES**
2 **AND RELATED RULES**

3 **SEC. 501. EFFECTIVE DATES.**

4 **Except as otherwise provided in this Act,**
5 **the amendments made by this Act shall be ef-**
6 **fective on the date of enactment of this Act.**

7 **SEC. 502. DELAY IN CHANGES TO PREVAILING COMMIS-**
8 **SIONERS' TABLE.**

9 **For purposes of sections 205(g)(3) and**
10 **302(d)(7)(C) of the Employee Retirement In-**
11 **come Security Act of 1974 and sections**
12 **412(l)(7)(C), 415(b), and 417(e)(3) of the Inter-**
13 **nal Revenue Code of 1986, any change in the**
14 **prevailing commissioners' standard table de-**
15 **scribed in section 807(d)(5)(A) of such Code**
16 **shall be appropriate for pension plans and**
17 **apply to plan years beginning on or after the**
18 **later of—**

19 **(1) January 1, 2000, or**

20 **(2) a date, as prescribed by the Sec-**
21 **retary of the Treasury, after the date of**
22 **the issuance by the Secretary of a revised**
23 **table based on the prevailing commis-**
24 **sioners' standard table.**

1 **Any such revised table shall be issued by reg-**
2 **ulation. In issuing such regulations, the Sec-**
3 **retary shall take into account the results of**
4 **available independent studies with respect to**
5 **the appropriate bases for such a table and**
6 **after opportunity for public comment regard-**
7 **ing such studies.**

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