

104TH CONGRESS
1ST SESSION

H. R. 35

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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1995

Mr. FAWELL introduced the following bill; which was referred to the Committee on Economic and Educational Opportunities

A BILL

To amend the Employee Retirement Income Security Act of 1974 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 1995”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

Sec. 2. Amendment of ERISA.

TITLE I—PENSION PLAN FUNDING

- 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.

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 insolvent.
- Sec. 208. Substantial owner benefits.

TITLE III—MISCELLANEOUS AMENDMENTS

- Sec. 301. Recovery ratio under ERISA section 4022(c).
- Sec. 302. Rules governing computation of amounts payable by corporation.
- Sec. 303. Distress termination criteria for certain financial institutions.
- Sec. 304. Single sum distributions.
- Sec. 305. Adjustments to lien for missed minimum funding contributions.
- Sec. 306. Funding of restored plans.

TITLE IV—EFFECTIVE DATE

- Sec. 401. Effective date.

1 SEC. 2. AMENDMENT OF ERISA.

2 The sections of the Employee Retirement Income Se-
3 curity Act of 1974 which are amended by the subsequent
4 provisions of this Act are amended so as to read as such
5 sections would read if the Uruguay Round Agreements
6 Act had not been enacted. References to such sections in
7 the subsequent provisions of this Act shall be deemed ref-
8 erences to such sections as amended by this section. This
9 section shall be effective as if included in the Uruguay
10 Round Agreements Act.

1 **TITLE I—PENSION PLAN**
2 **FUNDING**

3 **SEC. 101. MINIMUM FUNDING REQUIREMENTS.**

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

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

9 (A) Clause (ii) of section 302(d)(1)(A) of
10 such Act is amended to read as follows:

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

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

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

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

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

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

8 (C) by adding at the end the following new
9 subparagraph:

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

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

15 (A) Paragraph (3) of section 302(d) of
16 such Act is amended by adding at the end the
17 following new subparagraph:

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

20 “(i) IN GENERAL.—The unfunded old
21 liability amount with respect to any plan
22 for any plan year shall be increased by the
23 amount necessary to amortize the amount
24 of additional unfunded old liability under
25 the plan in equal annual installments over

1 a period of 12 plan years (beginning with
2 the first plan year beginning after Decem-
3 ber 31, 1995).

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

8 “(I) the current liability of the
9 plan as of the beginning of the first
10 plan year beginning after December
11 31, 1995, valued using the assump-
12 tions required by paragraph (7)(C) as
13 in effect for plan years beginning
14 after December 31, 1995, exceeds

15 “(II) the current liability of the
16 plan as of the beginning of such first
17 plan year, valued using the same as-
18 sumptions used under subclause (I)
19 (other than the assumptions required
20 by paragraph (7)(C)), using the prior
21 interest rate, and using such mortality
22 assumptions as were used to deter-
23 mine current liability for the first plan
24 year beginning after December 31,
25 1992.

1 “(iii) PRIOR INTEREST RATE.—For
2 purposes of clause (ii), the term ‘prior in-
3 terest rate’ means the rate of interest that
4 is the same percentage of the weighted av-
5 erage under subsection (b)(5)(B)(ii)(I) for
6 the first plan year beginning after Decem-
7 ber 31, 1995, as the rate of interest used
8 by the plan to determine current liability
9 for the first plan year beginning after De-
10 cember 31, 1992, is of the weighted aver-
11 age under subsection (b)(5)(B)(ii)(I) for
12 such first plan year beginning after De-
13 cember 31, 1992.”

14 (4) APPLICABLE PERCENTAGE FOR DETERMIN-
15 ING UNFUNDED NEW LIABILITY AMOUNT.—Subpara-
16 graph (C) of section 302(d)(4) of such Act is
17 amended by striking “35” and inserting “60”.

18 (5) UNPREDICTABLE CONTINGENT EVENT
19 AMOUNT.—

20 (A) Subparagraph (A) of section 302(d)(5)
21 of such Act is amended—

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

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

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

3 (iv) by adding after clause (ii) the fol-
4 lowing new clause:

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

11 (B) Paragraph (5) of section 302(d) of
12 such Act is amended by adding at the end the
13 following new subparagraph:

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

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

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

23 (ii) by striking “or” at the end of
24 subclause (I);

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

3 (iv) by adding after subclause (II) the
4 following new clause:

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

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

12 “(C) INTEREST RATE AND MORTALITY AS-
13 SUMPTIONS USED.—Effective for plan years be-
14 ginning after December 31, 1995—

15 “(i) the rate of interest used to deter-
16 mine current liability under this subsection
17 shall be the rate of interest used under
18 subsection (b)(5), except that the highest
19 rate in the permissible range under sub-
20 paragraph (B)(ii) thereof shall not exceed
21 100 percent of the weighted average re-
22 ferred to in such subparagraph, and

23 “(ii) the mortality table used to deter-
24 mine current liability under this subsection

1 shall be the table prescribed by the Sec-
2 retary.

3 The table prescribed under clause (ii) shall be
4 based on the prevailing commissioners' stand-
5 ard table used to determine reserves for group
6 annuity contracts issued on the date as of
7 which current liability is determined. The Sec-
8 retary shall prescribe separate tables, which
9 may be used instead of the table described in
10 the preceding sentence, to calculate mortality
11 rates for participants who satisfy the definition
12 of disability under titles II and XVI of the So-
13 cial Security Act and the regulations there-
14 under."

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

18 “(9) PHASEIN OF INCREASES IN FUNDING RE-
19 QUIRED BY RETIREMENT PROTECTION ACT OF
20 1995.—

21 “(A) IN GENERAL.—For any applicable
22 plan year, at the election of the employer, the
23 increase under paragraph (1) shall not exceed
24 the greater of—

1 “(i) the increase that would be re-
2 quired under paragraph (1) if the provi-
3 sions of this title as in effect for plan years
4 beginning before January 1, 1996, had re-
5 mained in effect, or

6 “(ii) the amount which, after taking
7 into account charges (other than the addi-
8 tional charge under this subsection) and
9 credits under subsection (b), is necessary
10 to increase the funded current liability per-
11 centage (taking into account the expected
12 increase in current liability due to benefits
13 accruing during the plan year) for the ap-
14 plicable plan year to a percentage equal to
15 the sum of the initial funded current liabil-
16 ity percentage of the plan plus the applica-
17 ble number of percentage points for such
18 applicable plan year.

19 “(B) APPLICABLE NUMBER OF PERCENT-
20 AGE POINTS.—

21 “(i) INITIAL FUNDED CURRENT LI-
22 ABILITY PERCENTAGE OF 75 PERCENT OR
23 BHLESS.—Except as provided in clause
24 (ii), for plans with an initial funded cur-
25 rent liability percentage of 75 percent or

1 less, the applicable number of percentage
 2 points for the applicable plan year is:

“In the case of applicable plan years beginning in:	The applicable number of percentage points is:
1996	3
1997	6
1998	9
1999	12
2000	15
2001	19
2002	24.

3 “(ii) OTHER CASES.—In the case of a
 4 plan to which this clause applies, the appli-
 5 cable number of percentage points for any
 6 such applicable plan year is the sum of—

7 “(I) 2 percentage points;

8 “(II) the applicable number of
 9 percentage points (if any) under this
 10 clause for the preceding applicable
 11 plan year;

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

18 “(IV) for applicable plan years
 19 beginning in 2000, 1 percentage
 20 point; and

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

3 “(iii) PLANS TO WHICH CLAUSE (ii)
4 APPLIES.—

5 “(I) IN GENERAL.—Clause (ii)
6 shall apply to a plan for an applicable
7 plan year if the initial funded current
8 liability percentage of such plan is
9 more than 75 percent.

10 “(II) PLANS INITIALLY UNDER
11 CLAUSE (i).—In the case of a plan
12 which (but for this subclause) has an
13 initial funded current liability percent-
14 age of 75 percent or less, clause (ii)
15 (and not clause (i)) shall apply to
16 such plan with respect to applicable
17 plan years beginning after the first
18 applicable plan year for which the
19 sum of the initial funded current li-
20 ability percentage and the applicable
21 number of percentage points (deter-
22 mined under clause (i)) exceeds 75
23 percent. For purposes of applying
24 clause (ii) to such a plan, the initial
25 funded current liability percentage of

1 such plan shall be treated as being the
2 sum referred to in the preceding sen-
3 tence.

4 “(C) DEFINITIONS.—For purposes of this
5 paragraph—

6 “(i) The term ‘applicable plan year’
7 means a plan year beginning after Decem-
8 ber 31, 1995, and before January 1, 2003.

9 “(ii) The term ‘initial funded current
10 liability percentage’ means the funded cur-
11 rent liability percentage as of the first day
12 of the first plan year beginning after De-
13 cember 31, 1995.”

14 (8) LIQUIDITY REQUIREMENT.—

15 (A) Section 302(e) of such Act is amended
16 by redesignating paragraph (5) as paragraph
17 (6) and by inserting after paragraph (4) the
18 following new paragraph:

19 “(5) LIQUIDITY REQUIREMENT.—

20 (A) IN GENERAL.—A plan to which this
21 paragraph applies shall be treated as failing to
22 pay the full amount of any required installment
23 to the extent that the value of the liquid assets
24 paid in such installment is less than the liquid-
25 ity shortfall (whether or not such liquidity

1 shortfall exceeds the amount of such install-
2 ment required to be paid but for this para-
3 graph).

4 “(B) PLANS TO WHICH PARAGRAPH AP-
5 PLIES.—This paragraph shall apply to a de-
6 fined benefit plan to which subsection (d) ap-
7 plies and which—

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

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

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

18 “(D) LIMITATION ON INCREASE.—If the
19 amount of any required installment is increased
20 by reason of subparagraph (A), in no event
21 shall such increase exceed the amount which,
22 when added to prior installments for the plan
23 year, is necessary to increase the funded cur-
24 rent liability percentage (taking into account
25 the expected increase in current liability due to

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

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

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

13 “(ii) BASE AMOUNT.—

14 “(I) IN GENERAL.—The term
15 ‘base amount’ means, with respect to
16 any quarter, an amount equal to 3
17 times the sum of the adjusted dis-
18 bursements from the plan for the 12
19 months ending on the last day of such
20 quarter.

21 “(II) SPECIAL RULE.—If the
22 amount determined under clause (i)
23 exceeds an amount equal to 2 times
24 the sum of the adjusted disburse-
25 ments from the plan for the 36

1 months ending on the last day of the
2 quarter and an enrolled actuary cer-
3 tifies to the Secretary that such ex-
4 cess is the result of nonrecurring cir-
5 cumstances, the base amount with re-
6 spect to such quarter shall be deter-
7 mined without regard to amounts re-
8 lated to those nonrecurring cir-
9 cumstances.

10 “(iii) DISBURSEMENTS FROM THE
11 PLAN.—The term ‘disbursements from the
12 plan’ means all disbursements from the
13 trust, including purchases of annuities,
14 payments of single sums and other bene-
15 fits, and administrative expenses.

16 “(iv) ADJUSTED DISBURSEMENTS.—
17 The term ‘adjusted disbursements’ means
18 disbursements from the plan reduced by
19 the product of—

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

23 “(II) the sum of the purchases of
24 annuities, payments of single sums,

1 and such other disbursements as the
2 Secretary shall provide in regulations.

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

7 “(vi) QUARTER.—The term ‘quarter’
8 means, with respect to any required install-
9 ment, the 3-month period preceding the
10 month in which the due date for such in-
11 stallment occurs.

12 “(F) REGULATIONS.—The Secretary may
13 prescribe such regulations as are necessary to
14 carry out this paragraph.”

15 (B) LIMITATION ON DISTRIBUTIONS
16 OTHER THAN LIFE ANNUITIES PAID BY THE
17 PLAN.—

18 (i) Section 204 of the Employee Re-
19 tirement Income Security Act of 1974 (29
20 U.S.C. 1054) is amended by redesignating
21 subsection (i) as (j) and inserting a new
22 subsection (i) to read as follows:

23 “(i) LIMITATION ON DISTRIBUTIONS OTHER THAN
24 LIFE ANNUITIES PAID BY THE PLAN.—

1 “(1) IN GENERAL.—Notwithstanding any other
2 provision of this part, the fiduciary of a pension plan
3 that is subject to the additional funding require-
4 ments of section 302(d) shall not permit a prohib-
5 ited payment to be made from a plan during a pe-
6 riod in which such plan has a liquidity shortfall (as
7 defined in section 302(e)(5)).

8 “(2) PROHIBITED PAYMENT.—For purposes of
9 paragraph (1), the term ‘prohibited payment’
10 means—

11 “(A) any payment, in excess of the month-
12 ly amount paid under a single life annuity (plus
13 any social security supplements described in the
14 last sentence of section 204(b)(1)(G)), to a par-
15 ticipant or beneficiary whose annuity starting
16 date (as defined in section 205(h)(2)), that oc-
17 curs during the period referred to in paragraph
18 (1),

19 “(B) any payment for the purchase of an
20 irrevocable commitment from an insurer to pay
21 benefits, and

22 “(C) any other payment specified by the
23 Secretary by regulations.

24 “(3) PERIOD OF SHORTFALL.—For purposes of
25 this subsection, a plan has a liquidity shortfall dur-

1 ing the period that there is an underpayment of an
2 installment under section 302(e) by reason of para-
3 graph (5)(A) thereof.

4 “(4) COORDINATION WITH OTHER PROVI-
5 SIONS.—Compliance with this subsection shall not
6 constitute a violation of any other provision of this
7 Act.”

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

11 “(m) In the case of a distribution to a pension plan
12 participant or beneficiary in violation of section 204(i) by
13 a plan fiduciary, the Secretary shall assess a penalty
14 against such fiduciary in an amount equal to the value
15 of the distribution. Such penalty shall not exceed \$10,000
16 for each such distribution.”

17 (9) AMENDMENT TO DEFINITION OF FULL
18 FUNDING LIMITATION.—

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

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

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

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

17 (C) Subparagraph (B) of section 302(c)(7)
18 of such Act is amended to read as follows:

19 “(B) CURRENT LIABILITY.—For purposes
20 of subparagraph (D) and subclause (I) of sub-
21 paragraph (A)(i), the term ‘current liability’
22 has the meaning given such term by subsection
23 (d)(7) (without regard to subparagraphs (C)
24 and (D) thereof) and using the rate of interest
25 used under subsection (b)(5)(B).”

1 (b) EFFECTIVE DATE.—

2 (1) IN GENERAL.—The amendments made by
3 this section shall apply to plan years beginning after
4 December 31, 1995.

5 (2) DELAY IN EFFECTIVE DATE FOR DISABLED
6 LIVES.—For plan years beginning before January 1,
7 1997, current liability may be determined using a
8 plan's own assumptions for purposes of calculating
9 the mortality rates of disabled lives.

10 **SEC. 102. LIMITATION ON CHANGES IN CURRENT LIABILITY**
11 **ASSUMPTIONS.**

12 (a) IN GENERAL.—Paragraph (5) of section 302(c)
13 of the Employee Retirement Income Security Act of 1974
14 (29 U.S.C. 1082(c)(5)) is amended—

15 (1) by striking “If the funding method” and in-
16 sserting the following:

17 “(A) IN GENERAL.—If the funding meth-
18 od”, and

19 (2) by adding at the end the following new sub-
20 paragraph:

21 “(B) APPROVAL REQUIRED FOR CERTAIN
22 CHANGES IN ASSUMPTIONS BY CERTAIN SINGLE
23 EMPLOYER PLANS SUBJECT TO ADDITIONAL
24 FUNDING REQUIREMENT.—

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

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

11 “(I) subsection (d) applies to the
12 plan;

13 “(II) the employer (within the
14 meaning of section 302(c)(11) (with-
15 out regard to subparagraph (B) there-
16 of)) maintaining such plan is de-
17 scribed in section 4043(b)(1); and

18 “(III) the change in assumptions
19 (determined after taking into account
20 any changes in interest rate and mor-
21 tality table) results in a decrease in
22 the unfunded current liability of the
23 plan for the current plan year that is
24 \$50,000,000 or greater, or that is
25 \$5,000,000 or greater and that is 5

1 percent or more of the current liabil-
2 ity of the plan before such change.”

3 (b) EFFECTIVE DATE.—

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

7 (2) CERTAIN CHANGES CEASE TO BE EFFEC-
8 TIVE.—In the case of changes in assumptions for
9 plan years beginning after December 31, 1992, and
10 on or before October 28, 1993, such changes shall
11 cease to be effective for plan years beginning after
12 December 31, 1995, if—

13 (A) such change would have required the
14 approval of the Secretary had such amendment
15 applied to such change, and

16 (B) such change is not so approved.

17 **SEC. 103. ANTICIPATION OF BARGAINED BENEFIT IN-**
18 **CREASES.**

19 (a) IN GENERAL.—Section 302(c) of the Employee
20 Retirement Income Security Act of 1974 (29 U.S.C.
21 1082(c)) is amended by adding at the end the following
22 new paragraph:

23 “(12) ANTICIPATION OF BENEFIT INCREASES
24 EFFECTIVE IN THE FUTURE.—In determining pro-
25 jected benefits, the funding method of a collectively

1 bargained plan described in section 413(a) of the In-
2 ternal Revenue Code of 1986 (other than a multiem-
3 ployer plan) shall anticipate benefit increases sched-
4 uled to take effect during the term of the collective
5 bargaining agreement applicable to the plan.”

6 (b) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to plan years beginning after De-
8 cember 31, 1995 with respect to collective bargaining
9 agreements in effect on or after January 1, 1996.

10 **SEC. 104. MODIFICATION OF QUARTERLY CONTRIBUTION**
11 **REQUIREMENT.**

12 (a) IN GENERAL.—Paragraph (1) of section 302(e)
13 of the Employee Retirement Income Security Act of 1974
14 (29 U.S.C. 1082(e)) is amended—

15 (1) by inserting “which has a funded current li-
16 ability percentage (as defined in subsection (d)(8))
17 for the preceding plan year of less than 100 per-
18 cent” before “fails”, and

19 (2) by striking “any plan year” and inserting
20 “the plan year”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to plan years beginning after the
23 date of enactment of this Act.

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
8 Income Security Act of 1974 (29 U.S.C. 1343(a)) is
9 amended—

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

13 (2) in the first sentence, by inserting “, unless
14 a notice otherwise required under this subsection has
15 already been provided with respect to such event”
16 before 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 redesi-
20 gnating subsections (b), (c), and (d) as (c), (d), and (e),
21 respectively, and by inserting after subsection (a) the fol-
22 lowing new subsection:

23 “(b)(1) The requirements of this subsection shall be
24 applicable to a contributing sponsor only if the aggregate
25 unfunded vested benefits at the end of the preceding plan

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

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
15 section 4043 of such Act (as redesignated by subsection
16 (b)) is amended—

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

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

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

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

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

13 (e) TECHNICAL AND CONFORMING AMENDMENTS.—

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

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

22 (f) EFFECTIVE DATE.—The amendments made by
23 this section shall be effective for events occurring 60 days
24 or 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
4 U.S.C. 1341 et seq.) is amended by adding at the end
5 the following new section:

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

8 “(a) INSTITUTION OF PROCEEDINGS.—

9 “(1) IN GENERAL.—Whenever the corporation
10 determines (without regard to the potential availabil-
11 ity of relief under this section) that, upon the occur-
12 rence of an event described in paragraph (9), (10),
13 (11), (12), or (13) of section 4043(c), the possible
14 long-run loss of the corporation with respect to a
15 plan may reasonably be expected to increase unrea-
16 sonably if the plan is not terminated, the corporation
17 may, in its discretion, institute proceedings under
18 this section as an alternative to instituting proceed-
19 ings under section 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
24 total operating income, or the total assets of a con-
25 tributing sponsor and all members of its controlled
26 group would be less than 90 percent of the total rev-

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

7 “(b) Whenever the corporation makes a determina-
8 tion under subsection (a), it may, upon notice to a contrib-
9 uting sponsor, apply to the appropriate United States dis-
10 trict court for such legal or equitable relief as the corpora-
11 tion deems appropriate and consistent with its duties
12 under this title. The court shall grant such relief as it de-
13 termines necessary to protect the interests of the partici-
14 pants or to avoid any unreasonable deterioration of the
15 financial condition of the plan or any unreasonable in-
16 crease in the liability of the fund, without interfering un-
17 reasonably with the business of the contributing sponsor
18 or members of its controlled group.

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

1 mission of additional information or documentary mate-
2 rial, in which case an action under this section may be
3 brought no later than 20 days after the corporation re-
4 ceives all the information and documentary material it had
5 required.

6 “(2) After a notice described in paragraph (1) is pro-
7 vided to the corporation, a person may elect, upon further
8 notice to the corporation, to proceed with an event prior
9 to the expiration of the time periods described in para-
10 graph (1). In the case of such an election, an action under
11 this section may be brought at any time within the period
12 specified in subsection 4003(e)(6).

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

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

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

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

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

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

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

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall be effective for events occurring 60 days
23 or more after the 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 of the
4 Employee Retirement Income Security Act of 1974 (29
5 U.S.C. 1301 et seq.) is amended by adding at the end
6 the following new section:

7 **“SEC. 4010. AUTHORITY TO REQUIRE CERTAIN INFORMA-**
8 **TION.**

9 “(a) INFORMATION REQUIRED.—Each person de-
10 scribed in subsection (b) shall provide the corporation an-
11 nually, on or before a date specified by the corporation
12 in regulations, with—

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

17 “(2) copies of such person’s audited (or, if un-
18 available, unaudited) financial statements, and such
19 other financial information as the corporation may
20 prescribe in regulations.

21 “(b) PERSONS REQUIRED TO PROVIDE INFORMA-
22 TION.—The persons covered by subsection (a) are each
23 contributing sponsor, and each member of a contributing
24 sponsor’s controlled group, of a single-employer plan cov-
25 ered by this title, if—

1 “(1) the aggregate unfunded vested benefits at
2 the end of the preceding plan year (as determined
3 under section 4006(a)(3)(E)(iii)) of plans which are
4 maintained by the contributing sponsor and the
5 members of its controlled group and are covered by
6 this title exceed \$50,000,000 (taking into account
7 only those plans of the contributing sponsor and its
8 controlled group with unfunded vested benefits); or

9 “(2) the conditions for imposition of a lien de-
10 scribed in section 302(f)(1)(A) and (B) have been
11 met with respect to any plan maintained by the con-
12 tributing sponsor or any member of its controlled
13 group; or

14 “(3) minimum funding waivers in excess of
15 \$1,000,000 have been granted with respect to any
16 plan maintained by the contributing sponsor or any
17 member of its controlled group, and any portion
18 thereof is still outstanding.

19 “(c) INFORMATION EXEMPT FROM DISCLOSURE RE-
20 QUIREMENTS.—Any information or documentary material
21 submitted to the corporation pursuant to this section shall
22 be exempt from disclosure under section 552 of title 5,
23 United States Code, and no such information or documen-
24 tary material may be made public, except as may be rel-
25 evant to any administrative or judicial action or proceed-

1 ing. Nothing in this section is intended to prevent disclo-
2 sure to either body of Congress or to any duly authorized
3 committee or subcommittee of the Congress.”

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

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

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

11 **SEC. 204. LIABILITY UPON LIQUIDATION OF CONTRIBUTING**
12 **SPONSOR OR CONTROLLED GROUP MEMBER**
13 **IF PLAN REMAINS ONGOING.**

14 (a) IN GENERAL.—Section 4062 of the Employee Re-
15 tirement Income Security Act of 1974 (29 U.S.C. 1362)
16 is amended by adding at the end the following new sub-
17 section:

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

20 “(1) IN GENERAL.—In any case in which all or
21 substantially all of the assets of a person who is a
22 contributing sponsor of a single-employer plan, or a
23 member of a controlled group of a contributing
24 sponsor of a single-employer plan, are liquidated in
25 a case under title 11, United States Code, or under

1 any similar Federal law or law of a State or political
2 subdivision of a State, but the plan is not termi-
3 nated, such person shall be deemed liable under sub-
4 section (b) as if the plan had terminated under sec-
5 tion 4041(c) in the course of such liquidation and as
6 if the termination date were the date determined by
7 the corporation as the date on which the liquidation
8 was initiated.

9 “(2) LIMITED JOINT AND SEVERAL LIABIL-
10 ITY.—The liability under this subsection shall be
11 joint and several only among the members of the
12 controlled group (including, where applicable, the
13 contributing sponsor) who are liquidating as de-
14 scribed in paragraph (1).

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

24 “(4) LIABILITY OWED TO PLAN; TRANSFER OF
25 LIABILITY PAYMENTS TO THE ONGOING PLAN

1 WHERE COLLECTED BY THE CORPORATION.—The li-
2 ability established under this subsection shall be
3 owed to the plan, and may be collected by either the
4 plan or the corporation. The corporation shall pay to
5 the plan any amounts collected by the corporation in
6 satisfaction of the liability established under this
7 subsection in connection with such plan.

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

10 “(A) rules governing—

11 “(i) the determination of whether and
12 when a liquidation referred to in this sub-
13 section has occurred, and

14 “(ii) the assignment of the plan’s or
15 corporation’s claim to liability payments
16 under this subsection to other members of
17 the controlled group as a means of collect-
18 ing such payments, subject to the transfer
19 of such payments to the plan, and

20 “(B) rules providing alternative arrange-
21 ments for making liability payments under this
22 subsection.”

23 (b) CONFORMING AMENDMENT.—Section 4062(a) of
24 such Act is amended—

1 (1) in paragraph (1), by striking “and” after
2 “subsection (b),”; and

3 (2) in paragraph (2), by striking the period
4 after “subsection (c)” and inserting “, and”; and

5 (3) by adding at the end the following new
6 paragraph:

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

9 (c) COORDINATION WITH MINIMUM FUNDING
10 RULES.—Section 302(c) of the Employee Retirement In-
11 come Security Act of 1974 is amended by adding at the
12 end the following new paragraph:

13 “(13) TREATMENT OF LIABILITY ON LIQUIDA-
14 TION OF EMPLOYER.—Any amount paid to a plan
15 pursuant to section 4062(f)—

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

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

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

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

3 (a) IN GENERAL.—Paragraph (1) of section 4003(e)
4 of the Employee Retirement Income Security Act of 1974
5 (29 U.S.C. 1303(e)(1)) is amended—

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

7 (2) by striking the period after “title” and in-
8 serting “, and (B) in the case of a plan which is cov-
9 ered under this title (other than a multiemployer
10 plan) and for which the conditions for imposition of
11 a lien described in section 302(f)(1)(A) and (B) have
12 been met, section 302.”

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

18 **SEC. 206. REMEDIES FOR NONCOMPLIANCE WITH REQUIRE-**
19 **MENTS FOR STANDARD TERMINATION.**

20 (a) NOTICE OF NONCOMPLIANCE.—Section
21 4041(b)(2)(C)(i) of the Employee Retirement Income
22 Security Act of 1974 (29 U.S.C. 1341(b)(2)(C)(i)) is
23 amended—

24 (1) by striking subclause (I) and inserting the
25 following new subclause:

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

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

8 (3) by adding at the end the following new
9 subclause:

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

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

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

3 (a) IN GENERAL.—Section 204 of the Employee Re-
4 tirement Income Security Act of 1974 (29 U.S.C. 1054),
5 as amended by section 101 of this Act, is further amended
6 by redesignating subsection (j) as (k) and inserting a new
7 subsection (j) to read as follows:

8 “(j)(1) In the case of a plan described in paragraph
9 (3) which is maintained by an employer that is a debtor
10 in a case under title 11, United States Code, or similar
11 Federal or State law, no amendment of the plan which
12 increases the liabilities of the plan by reason of—

13 “(A) any increase in benefits,

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

15 “(C) any change in the rate at which benefits
16 become nonforfeitable under the plan,

17 with respect to employees of the debtor, shall be effective
18 prior to the effective date of such employer’s plan of reor-
19 ganization.

20 “(2) Paragraph (1) shall not apply to any plan
21 amendment that—

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

1 “(B) only repeals an amendment described in
2 section 302(c)(8),

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

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

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

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

20 (b) EFFECTIVE DATE OF PLAN AMENDMENT.—Sec-
21 tion 4022 of the Employee Retirement Income Security
22 Act of 1974 (29 U.S.C. 1322) is amended by inserting
23 at the end the following new subsection:

24 “(f) For purposes of this section, the effective date
25 of a plan amendment described in section 204(j)(1) shall

1 be the effective date of the plan of reorganization of the
2 employer described in section 204(j)(1) or, if later, the ef-
3 fective date stated in such amendment.”.

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

7 **SEC. 208. SUBSTANTIAL OWNER BENEFITS.**

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

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

18 “(C) In the case of a participant who is a majority
19 owner, the amount of benefits guaranteed under this sec-
20 tion shall not exceed the lesser of—

21 “(i) the amount otherwise determined under
22 this subsection, or

23 “(ii) the product of—

24 “(I) a fraction (not to exceed 1) the nu-
25 merator of which is the number of years from

1 the later of the effective date or the adoption
2 date of the plan, and the denominator of which
3 is 30, and

4 “(II) the amount of the majority owner’s
5 monthly benefits guaranteed under subsection
6 (a) (as limited by paragraph (3) of this sub-
7 section).”

8 (b) MODIFICATION OF ALLOCATION OF ASSETS.—

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

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

13 (A) in paragraph (2), by inserting “(4),”
14 before “(5)”, and by inserting a comma after
15 “(5)”;

16 (B) by redesignating paragraphs (3)
17 through (6) as paragraphs (4) through (7), re-
18 spectively; and

19 (C) by inserting a new paragraph (3) to
20 read as follows:

21 “(3) If assets available for allocation under
22 paragraph (4) of subsection (a) are insufficient to
23 satisfy in full the benefits of all individuals who are
24 described in that paragraph, the assets shall be allo-
25 cated first to benefits described in subparagraph (A)

1 of that paragraph. Any remaining assets shall then
2 be allocated to subparagraph (B). If assets allocated
3 to subparagraph (B) are insufficient to satisfy in full
4 the benefits in that subparagraph, the assets shall
5 be allocated pro rata among individuals on the basis
6 of the present value (as of the termination date) of
7 their respective benefits described in that subpara-
8 graph.”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall be effective for plan terminations under
11 section 4041(c) of the Employee Retirement Income Secu-
12 rity Act of 1974 with respect to which notices of intent
13 to terminate are provided under section 4041(a)(2) of
14 such Act, or under section 4042 of such Act with respect
15 to which proceedings are instituted by the corporation, on
16 or after the date of enactment of this Act.

17 **TITLE III—MISCELLANEOUS** 18 **AMENDMENTS**

19 **SEC. 301. RECOVERY RATIO UNDER ERISA SECTION 4022(c).**

20 (a) IN GENERAL.—Section 4022(c)(3) of the Em-
21 ployee Retirement Income Security Act of 1974 (29
22 U.S.C. 1322(c)(3)) is amended—

23 (1) by striking “(3)(A) Except as” and all that
24 follows through “the ration of—” in subparagraph
25 (C) and inserting the following:

1 “(3) For purposes of this section, the term ‘recovery
2 ratio’ means, with respect to a terminated plan the ratio
3 of—”; and

4 (2) by redesignating clauses (i) and (ii) in such
5 section 4022(c)(3) (as so amended) as subpara-
6 graphs (A) and (B), respectively.

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

10 **SEC. 302. RULES GOVERNING COMPUTATION OF AMOUNTS**

11 **PAYABLE BY CORPORATION.**

12 (a) PRIOR PLAN TERMINATIONS TAKEN INTO AC-
13 COUNT IN APPLYING RECOVERY RATIO.—Section
14 4022(c)(3)(B)(ii) of the Employee Retirement Income Se-
15 curity Act of 1974 (29 U.S.C. 1322(c)(3)(B)(ii)) is
16 amended to read as follows:

17 “(ii) notices of intent to terminate were pro-
18 vided, or proceedings were instituted under section
19 4042, after December 17, 1987, and during the first
20 5 fiscal years of the 7-fiscal-year period ending with
21 the fiscal year preceding the fiscal year for which
22 the recovery ratio is being determined.”

23 (b) CLARIFICATION UNDER DISTRESS TERMINATION
24 RULES OF DATE FOR DETERMINATIONS RELATING TO
25 SUBSEQUENT INSUFFICIENCY.—Section 4022(c) of such

1 Act (29 U.S.C. 1322(c)) is amended by adding at the end
2 the following new subsection:

3 “(5) For purposes of this subsection, in the case of
4 a plan described in section 4041(c)(3)(C)(ii), the out-
5 standing amount of benefit liabilities and the value of the
6 recoveries of the corporation under section 4062, 4063,
7 or 4064 in connection with such plan shall be determined
8 as of the date described in section 4062(b)(1)(B).”.

9 (c) INCLUSION OF TERMINATION PROCEEDINGS IN-
10 STITUTED BY CORPORATION IN TRANSITIONAL RULE.—
11 Section 9312(b)(3)(B)(i) of the Omnibus Budget Rec-
12 onciliation Act of 1987 (101 Stat. 1330–363) is amended
13 by inserting after “notices of intent to terminate were pro-
14 vided” the following: “, or proceedings were instituted
15 under section 4042 of ERISA,”.

16 (d) EFFECTIVE DATE.—The amendments made by
17 this section shall be effective as if included in section 9312
18 of the Pension Protection Act (101 Stat. 1330–361).

19 **SEC. 303. DISTRESS TERMINATION CRITERIA FOR CERTAIN**
20 **FINANCIAL INSTITUTIONS.**

21 (a) CLARIFICATION OF DISTRESS CRITERION.—
22 Subclause (I) of section 4041(c)(2)(B)(i) of the Employee
23 Retirement Income Security Act of 1974 (29 U.S.C.
24 1341(c)(2)(B)(i)) is amended by inserting after “under
25 any similar” the following: “Federal law or”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall be effective as if included in the Single
3 Employer Pension Plan Amendments Act of 1986.

4 **SEC. 304. SINGLE SUM DISTRIBUTIONS.**

5 (a) DETERMINATION OF PRESENT VALUE FOR PUR-
6 POSES OF RESTRICTIONS ON MANDATORY DISTRIBUTIONS.—Section 203(e)(2) of the Employee Retirement
7 Income Security Act of 1974 (29 U.S.C. 1053(e)(2)) is
8 amended to read as follows:
9

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

12 (b) DETERMINATION OF PRESENT VALUE FOR PUR-
13 POSES OF RESTRICTIONS ON CASH-OUTS.—Section
14 205(g)(3) of such Act (29 U.S.C. 1055(g)(3)) is amended
15 to read as follows:

16 “(3) DETERMINATION OF PRESENT VALUE.—

17 “(A) IN GENERAL.—

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

1 “(ii) DEFINITIONS.—For purposes of
2 clause (i)—

3 “(I) APPLICABLE MORTALITY
4 TABLE.—The term ‘applicable mortal-
5 ity table’ means the table prescribed
6 by the Secretary. Such table shall be
7 based on the prevailing commis-
8 sioners’ standard table (described in
9 section 807(d)(5)(A) of the Internal
10 Revenue Code of 1986) used to deter-
11 mine reserves for group annuity con-
12 tracts issued on the date as of which
13 present value is being determined
14 (without regard to any other subpara-
15 graph of section 807(d)(5) of such
16 Code).

17 “(II) APPLICABLE INTEREST
18 RATE.—The term ‘applicable interest
19 rate’ means the annual rate of inter-
20 est on 30-year Treasury securities for
21 the month before the date of distribu-
22 tion or such other time as the Sec-
23 retary may by regulations prescribe.

24 “(B) EXCEPTION.—In the case of a dis-
25 tribution from a plan that was adopted and in

1 effect prior to the date of the enactment of the
2 Retirement Protection Act of 1995, the present
3 value of any distribution made before the ear-
4 lier of—

5 “(i) the later of when a plan amend-
6 ment applying subparagraph (A) is adopt-
7 ed or made effective, or

8 “(ii) the first day of the first plan
9 year beginning after December 31, 2000,
10 shall be calculated, for purposes of paragraphs
11 (1) and (2), using the interest rates determined
12 under the regulations of the Pension Benefit
13 Guaranty Corporation for determining the
14 present value of a lump sum distribution on
15 plan termination that were in effect on Septem-
16 ber 1, 1993, and using the provisions of the
17 plan as in effect on the day before the date of
18 the enactment of the Retirement Protection Act
19 of 1995; but only if such provisions of the plan
20 met the requirements of section 205(g)(3) as in
21 effect on the day before such date of enact-
22 ment.”

23 (c) EFFECTIVE DATE.—

24 (1) IN GENERAL.—The amendments made by
25 this section shall apply to plan years and limitation

1 years beginning after December 31, 1995; except
2 that an employer may elect to treat the amendments
3 made by this section as being effective on or after
4 the date of enactment.

5 (2) NO REDUCTION IN ACCRUED BENEFITS.—A
6 participant’s accrued benefit shall not be considered
7 to be reduced in violation of section 204(g) of the
8 Employee Retirement Income Security Act of 1974
9 merely because the benefit is determined in accord-
10 ance with section 205(g)(3) of the Employee Retire-
11 ment Income Security Act of 1974, as amended by
12 this Act.

13 **SEC. 305. ADJUSTMENTS TO LIEN FOR MISSED MINIMUM**
14 **FUNDING CONTRIBUTIONS.**

15 (a) CLARIFICATION OF APPLICABILITY OF PROVI-
16 SION.—Section 302(f)(1) of the Employee Retirement In-
17 come Security Act of 1974 (29 U.S.C. 1082(f)(1)) is
18 amended by striking “to which this section applies” and
19 inserting “covered under section 4021 of this Act”.

20 (b) REPEAL OF \$1,000,000 OFFSET.—Paragraph (3)
21 of section 302(f) of such Act is amended to read as fol-
22 lows:

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

1 ments and other payments required under this sec-
2 tion (including interest)—

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

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

7 (c) REPEAL OF 60-DAY DELAY.—Section
8 302(f)(4)(B) of such Act is amended by striking “60th
9 day following the”.

10 (d) EFFECTIVE DATE.—The amendments made by
11 this section shall be effective for installments and other
12 payments required under part 3 of subtitle B of title I
13 of the Employee Retirement Income Security Act of 1974
14 that become due on or after the date of enactment.

15 **SEC. 306. FUNDING OF RESTORED PLANS.**

16 Any changes made by this Act to part 3 of subtitle
17 B of title I of the Employee Retirement Income Security
18 Act of 1974 shall not apply to a plan which is, on the
19 date of enactment of this Act, subject to a restoration pay-
20 ment schedule order issued by the Pension Benefit Guar-
21 anty Corporation.

1 **TITLE IV—EFFECTIVE DATE**

2 **SEC. 401. EFFECTIVE DATE.**

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

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