II

104TH CONGRESS

2D SESSION S. 1909 To require the offer in every defined benefit plan of a joint and two-thirds

survivor annuity option and to require comparative disclosure of all benefit options to both spouses.

IN THE SENATE OF THE UNITED STATES

JUNE 26, 1996 Mrs. BOXER introduced the following bill; which was read twice and referred

to the Committee on Finance

A BILL
To require the offer in every defined benefit plan of a joint
and two-thirds survivor annuity option and to require
comparative disclosure of all benefit options to both
spouses.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the ‘‘Pension Benefits Fair-

5 ness Act’’.

6 SEC. 2. MODIFICATIONS OF JOINT AND SURVIVOR ANNUITY
7 REQUIREMENTS.

8 (a) AMENDMENTS TO ERISA.—

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1 (1) AMOUNT OF ANNUITY.—
2 (A) IN GENERAL.—Paragraph (1) of sec-

3 tion 205(a) of the Employee Retirement Income
4 Security Act of 1974 (29 U.S.C. 1055(a)) is
5 amended by inserting ‘‘or, at the election of the

6 participant, shall be provided in the form of a
7 qualified joint and two-thirds survivor annuity’’

8 after ‘‘survivor annuity,’’.
9 (B) DEFINITION.—Subsection (d) of sec-
10 tion 205 of such Act (29 U.S.C. 1055) is

11 amended—
12 (i) by redesignating paragraphs (1)

13 and (2) as subparagraphs (A) and (B), re-
14 spectively,
15 (ii) by inserting ‘‘(1)’’ after ‘‘(d)’’,

16 and
17 (iii) by adding at the end the follow-

18 ing new paragraph:
19 ‘‘(2) For purposes of this section, the term ‘‘qualified
20 joint and two-thirds survivor annuity’’ means an annu-

21 ity—
22 ‘‘(A) for the participant while both the partici-

23 pant and the spouse are alive with a survivor annu-
24 ity for the life of the surviving individual (either the
participant or the spouse) equal to 662 25 ⁄3 percent of

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1 the amount of the annuity which is payable to the
2 participant while both the participant and the

3 spouse are alive,
4 ‘‘(B) which is the actuarial equivalent of a sin-

5 gle annuity for the life of the participant, and
6 ‘‘(C) which, for all other purposes of this Act,
7 is treated as a qualified joint and survivor annuity.’’.
8 (2) ILLUSTRATION REQUIREMENT.—Clause (i)

9 of section 205(c)(3)(A) of such Act (29 U.S.C.
10 1055(c)(3)(A)) is amended to read as follows:

11 ‘‘(i) the terms and conditions of each qualified
12 joint and survivor annuity and qualified joint and

13 two-thirds survivor annuity offered, accompanied by

14 an illustration of the benefits under each such annu-
15 ity for the particular participant and spouse and an
16 acknowledgement form to be signed by the partici-
17 pant and the spouse that they have read and consid-

18 ered the illustration before any form of retirement
19 benefit is chosen,’’.
20 (b) AMENDMENTS TO INTERNAL REVENUE CODE.—

21 (1) AMOUNT OF ANNUITY.—
22 (A) IN GENERAL.—Clause (i) of section
23 401(a)(11)(A) of the Internal Revenue Code of

24 1986 (relating to requirement of joint and sur-

25 vivor annuity and preretirement survivor annu-

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1 ity) is amended by inserting ‘‘or, at the election
2 of the participant, shall be provided in the form

3 of a qualified joint and two-thirds survivor an-
4 nuity’’ after ‘‘survivor annuity,’’.
5 (B) DEFINITION.—Section 417 of such

6 Code (relating to definitions and special rules
7 for purposes of minimum survivor annuity re-

8 quirements) is amended by redesignating sub-
9 section (f) as subsection (g) and by inserting
10 after subsection (e) the following new sub-

11 section:
12 ‘‘(f) DEFINITION OF QUALIFIED JOINT AND TWO-

13 THIRDS SURVIVOR ANNUITY.—For purposes of this sec-14 tion and section 401(a)(11), the term ‘‘qualified joint and 15 two-thirds survivor annuity’’ means an annuity—

16 ‘‘(1) for the participant while both the partici-
17 pant and the spouse are alive with a survivor annu-

18 ity for the life of the surviving individual (either the
participant or the spouse) equal to 662 19 ⁄3 percent of

20 the amount of the annuity which is payable to the
21 participant while both the participant and the
22 spouse are alive,

23 ‘‘(2) which is the actuarial equivalent of a sin-
24 gle annuity for the life of the participant, and

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1 ‘‘(3) which, for all other purposes of this title,
2 is treated as a qualified joint and survivor annuity.’’.
3 (2) ILLUSTRATION REQUIREMENT.—Clause (i)

4 of section 417(a)(3)(A) of such Code (relating to ex-
5 planation of joint and survivor annuity) is amended

6 to read as follows:
7 ‘‘(i) the terms and conditions of each

8 qualified joint and survivor annuity and
9 qualified joint and two-thirds survivor an-

10 nuity offered, accompanied by an illustra-
11 tion of the benefits under each such annu-
12 ity for the particular participant and

13 spouse and an acknowledgement form to
14 be signed by the participant and the

15 spouse that they have read and considered
16 the illustration before any form of retire-
17 ment benefit is chosen,’’.
18 (c) EFFECTIVE DATES.—

19 (1) IN GENERAL.—The amendments made by

20 this section shall apply to plan years beginning after
21 December 31, 1996.
22 (2) SPECIAL RULE FOR COLLECTIVELY BAR-

23 GAINED PLANS.—In the case of a plan maintained
24 pursuant to one or more collective bargaining agree-

25 ments between employee representatives and one or

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1 more employers ratified on or before the date of the
2 enactment of this Act, the amendments made by this

3 section shall apply to the first plan year beginning

4 on or after the earlier of—

5 (A) the later of—

6 (i) January 1, 1997, or
7 (ii) the date on which the last of such

8 collective bargaining agreements termi-
9 nates (determined without regard to any

10 extension thereof after the date of the en-

11 actment of this Act), or
12 (B) January 1, 1998.

13 (3) PLAN AMENDMENTS.—If any amendment
14 made by this section requires an amendment to any

15 plan, such plan amendment shall not be required to
16 be made before the first plan year beginning on or
17 after January 1, 1998, if—

18 (A) during the period after such amend-
19 ment made by this section takes effect and be-

20 fore such first plan year, the plan is operated
21 in accordance with the requirements of such
22 amendment made by this section, and

23 (B) such plan amendment applies retro-
24 actively to the period after such amendment

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1 made by this section takes effect and such first
2 plan year.

3 A plan shall not be treated as failing to provide defi-
4 nitely determinable benefits or contributions, or to

5 be operated in accordance with the provisions of the
6 plan, merely because it operates in accordance with
7 this paragraph.
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