

110TH CONGRESS
2D SESSION

H. R. 7242

To make technical corrections to the Pension Protection Act of 2006 relating to the Internal Revenue Code of 1986, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 2, 2008

Mr. ANDREWS introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To make technical corrections to the Pension Protection Act of 2006 relating to the Internal Revenue Code of 1986, 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 “Pension Protection Act IRC Amendments of 2008”.

6 (b) **TABLE OF CONTENTS.**—The table of contents is
7 as follows:

Sec. 1. Short title and table of contents.

- Sec. 2. Interest rate assumption for applying benefit limitations to lump sum distributions.
- Sec. 3. Technical correction to effective date of tax-free exchange provisions with respect to qualified long-term care insurance contracts.
- Sec. 4. Clarification of minimum required distribution rules for nonspouse beneficiaries of certain retirement plan distributions.
- Sec. 5. Amendments related to title IX of the Pension Protection Act of 2006.
- Sec. 6. Modification of IRA minimum distribution requirements.
- Sec. 7. Treatment of certain employer-owned life insurance contracts based on insured's status.
- Sec. 8. Failure to satisfy notice and consent requirement for employer-owned life insurance contracts.
- Sec. 9. Clarification of deductibility of contributions to both defined contribution plans and defined benefit plans.
- Sec. 10. Clarifications relating to treatment of distributions from governmental retirement plans for health and long-term care insurance for public safety officers.
- Sec. 11. Non-safe harbor formulas permitted for combined plans.
- Sec. 12. Safe harbor cash balance formula to deemed to meet requirements of sections 401(a)(4) and 411(B)(1).
- Sec. 13. Single participant combined plans.
- Sec. 14. Matching contributions provided through cash balance plan.
- Sec. 15. ESOP may form part of eligible combined plan.
- Sec. 16. Special funding target rule for plans computing accrued benefits by reference to hypothetical account balance.

1 **SEC. 2. INTEREST RATE ASSUMPTION FOR APPLYING BEN-**
 2 **EFIT LIMITATIONS TO LUMP SUM DISTRIBUTU-**
 3 **TIONS.**

4 (a) IN GENERAL.—Clause (ii) of section
 5 415(b)(2)(E) of the Internal Revenue Code of 1986 is
 6 amended—

7 (1) by striking subclause (II),

8 (2) by redesignating subclause (III) as sub-
 9 clause (II),

10 (3) by inserting “or” at the end of subclause
 11 (I), and

12 (4) by striking “the greatest of” and inserting
 13 “the greater of”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall be effective as if included in the enact-
3 ment of section 303 of the Pension Protection Act of
4 2006.

5 **SEC. 3. TECHNICAL CORRECTION TO EFFECTIVE DATE OF**
6 **TAX-FREE EXCHANGE PROVISIONS WITH RE-**
7 **SPECT TO QUALIFIED LONG-TERM CARE IN-**
8 **SURANCE CONTRACTS.**

9 (a) IN GENERAL.—Section 844(g)(2) of the Pension
10 Protection Act of 2006 (relating to effective date of
11 amendments made to section 1035 of the Internal Rev-
12 enue Code of 1986) is amended to read as follows:

13 “(2) TAX-FREE EXCHANGES.—

14 “(A) IN GENERAL.—Except as provided in
15 subparagraph (B), the amendments made by
16 subsection (b) shall apply with respect to ex-
17 changes occurring after December 31, 2009.

18 “(B) EXCHANGES OF QUALIFIED LONG-
19 TERM CARE INSURANCE CONTRACTS.—The
20 amendment made by subsection (b)(4) shall
21 apply with respect to exchanges occurring on or
22 after the date of the enactment of this Act.”.

23 (b) NO INFERENCE.—Nothing in the amendment
24 made by this section or the amendment made by section
25 844(b)(4) of the Pension Protection Act of 2006 shall be

1 construed to create an inference with respect to the treat-
2 ment of exchanges of qualified long-term care insurance
3 contracts under the Internal Revenue Code of 1986 (as
4 in effect before the date of the enactment of the Pension
5 Protection Act of 2006) other than section 1035(a)(4) of
6 the Internal Revenue Code of 1986.

7 (c) EFFECTIVE DATE.—The provisions of this section
8 (including the amendment made thereby) shall apply as
9 if included in the enactment of section 844 of the Pension
10 Protection Act of 2006.

11 **SEC. 4. CLARIFICATION OF MINIMUM REQUIRED DISTRIBUTION**
12 **RULES FOR NONSPOUSE BENEFICIARIES OF CERTAIN RETIREMENT PLAN**
13 **DISTRIBUTIONS.**
14

15 Not later than 90 days after the date of the enact-
16 ment of this Act, the Secretary of the Treasury shall issue
17 the following guidance:

18 (1) Permitting a nonspouse beneficiary who is
19 receiving distributions from an eligible retirement
20 plan under the 5-year rule of section
21 401(a)(9)(B)(ii) of the Internal Revenue Code of
22 1986, to elect to use the life expectancy rule of sec-
23 tion 401(a)(9)(B)(iii) of such Code in connection
24 with an eligible rollover distribution described in sec-
25 tion 402(e)(11) of such Code, provided that any

1 amounts that would have been required to be distrib-
2 uted under the life expectancy rule of section
3 401(a)(9)(B)(iii) of such Code are distributed by the
4 earlier of December 31, 2010 or the end of the 5-
5 year period determined under section
6 401(a)(9)(B)(ii) of such Code.

7 (2) Providing that a direct trustee-to-trustee
8 transfer under section 402(c)(11) that is made in
9 the year following the year of the employee's death
10 may include any undistributed required minimum
11 distributions under section 401(a)(9) for such year
12 if the nonspouse beneficiary on whose behalf the
13 transfer is made is eligible to elect the 5-year rule
14 of section 401(a)(9)(B)(ii).

15 **SEC. 5. AMENDMENTS RELATED TO TITLE IX OF THE PEN-**
16 **SION PROTECTION ACT OF 2006.**

17 (a) AMENDMENTS RELATED TO SECTION 902.—

18 (1) Subclause (I) of section 401(k)(13)(D)(i) of
19 the Internal Revenue Code of 1986 is amended by
20 striking “such compensation as exceeds 1 percent
21 but does not” and inserting “such contributions as
22 exceed 1 percent but do not”.

23 (2) Subparagraph (E) of section 401(k)(8) and
24 subparagraph (G) of section 411(a)(3) of such Code
25 are each amended—

1 (A) by striking “an erroneous automatic
2 contribution” and inserting “a permissible with-
3 drawal”, and

4 (B) by striking “ERRONEOUS AUTOMATIC
5 CONTRIBUTION” in the heading and inserting
6 “PERMISSIBLE WITHDRAWAL”.

7 (3) Clause (ii) of section 402(g)(2)(A) of such
8 Code is amended by inserting “through the end of
9 such taxable year” after “such amount”.

10 (4) Paragraph (3) of section 414(w) of such
11 Code is amended—

12 (A) by inserting “and” at the end of sub-
13 paragraph (B),

14 (B) by striking subparagraph (C), and

15 (C) by redesignating subparagraph (D) as
16 subparagraph (C).

17 (5) Paragraph (5) of section 414(w) of such
18 Code is amended by striking “and” at the end of
19 subparagraph (B), by striking the period at the end
20 of subparagraph (C) and inserting a comma, and by
21 adding at the end the following new subsections:

22 “(D) a simplified employee pension the
23 terms of which provide for a salary reduction
24 arrangement described in section 408(k)(6),
25 and

1 “(E) a simple retirement account (as de-
2 fined in section 408(p)).”.

3 (b) AMENDMENTS RELATED TO SECTION 903.—

4 (1) AMENDMENT OF 1986 CODE.—Paragraph
5 (1) of section 414(x) of such Code is amended by
6 adding at the end of paragraph (1) the following
7 new sentence: “The requirements for termination of
8 either of the 2 plans shall be applicable separately
9 with respect to each plan, except that, prior to final
10 distribution of assets pursuant to such termination,
11 nothing in this sentence shall be construed to affect
12 the application of paragraphs (3) and (4) to the ap-
13 plicable defined contribution plan forming part of
14 the eligible combined plan.”

15 (2) AMENDMENT OF ERISA.—Section 210(e)(1)
16 the Employee Retirement Income Security Act of
17 1974 (29 U.S.C. 1060(e)(1)) is amended by adding
18 at the end the following new sentence: “The require-
19 ments for termination of either of the 2 plans shall
20 be applicable separately with respect to each plan,
21 except that, prior to final distribution of assets pur-
22 suant to such termination, nothing in this sentence
23 shall be construed to affect the application of para-
24 graphs (3) and (4) to the applicable individual ac-

1 count plan forming part of the eligible combined
2 plan.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 subsections (a) and (b) shall apply as if included in the
5 enactment of sections 902 and 903, respectively, of the
6 Pension Protection Act of 2006.

7 **SEC. 6. MODIFICATION OF IRA MINIMUM DISTRIBUTION**
8 **REQUIREMENTS.**

9 (a) IN GENERAL.—

10 (1) MINIMUM DISTRIBUTION EXCLUSION
11 AMOUNT.—Subsection (a) of section 408 of the In-
12 ternal Revenue Code of 1986 (relating to individual
13 retirement account) is amended by adding at the end
14 the following new paragraph:

15 “(7) In the case of an interest not acquired by
16 reason of the death of another individual, minimum
17 distributions shall be required under rules prescribed
18 under paragraph (6) only to the extent the value of
19 all individual retirement plans of an individual ex-
20 ceeds \$200,000 as of the close of the calendar year
21 in which the taxable year begins.”.

22 (2) TAX-SHELTERED ANNUITIES AND INDI-
23 VIDUAL RETIREMENT PLANS.—

24 (A) Paragraph (10) of section 403(b) of
25 such Code (relating to distribution require-

1 ments) is amended by adding at the end the fol-
2 lowing new sentence: “For purposes of meeting
3 any minimum distribution requirement with re-
4 spect to a contract described in this subsection,
5 all of an individual’s contracts described in this
6 subsection and individual retirement accounts
7 and annuities shall be treated as 1 contract,
8 and all amounts paid or distributed out of such
9 contracts, accounts, and annuities shall be
10 treated as 1 distribution.”

11 (B) Paragraph (2) of section 408(d) of
12 such Code (relating to special rules for applying
13 section 72) is amended by adding at the end
14 the following new sentence: “For purposes of
15 meeting any minimum distribution requirement
16 with respect to an individual retirement account
17 or annuity, all of an individual’s contracts de-
18 scribed in section 403(b) and individual retire-
19 ment accounts and annuities shall be treated as
20 1 contract, and all amounts paid or distributed
21 out of such contracts, accounts, and annuities
22 shall be treated as 1 distribution.”

23 (b) EFFECTIVE DATE.—The amendment made by
24 this section shall apply to distributions made after Decem-
25 ber 31, 2008.

1 **SEC. 7. TREATMENT OF CERTAIN EMPLOYER-OWNED LIFE**
2 **INSURANCE CONTRACTS BASED ON IN-**
3 **SURED'S STATUS.**

4 (a) **IN GENERAL.**—Clause (ii) of section 101(j)(2)(A)
5 of the Internal Revenue Code of 1986 (relating to excep-
6 tions based on insured's status) is amended by striking
7 subclause (II), by redesignating subclause (III) as sub-
8 clause (IV), and by inserting after subclause (I) the fol-
9 lowing:

10 “(II) a 5-percent owner (as de-
11 fined in section 414(q)(2)) at any
12 time during the current or preceding
13 year,

14 “(III) an employee who had com-
15 pensation (as defined in section
16 415(c)(3)) for the preceding year, or
17 whose annual rate of compensation
18 (as so defined) for the current year is,
19 in excess of the amount described in
20 section 414(q)(1)(B)(i), or”.

21 (b) **EFFECTIVE DATE.**—The amendments made by
22 subsection (a) shall apply to life insurance contracts issued
23 after the date of the enactment of this Act.

1 **SEC. 8. FAILURE TO SATISFY NOTICE AND CONSENT RE-**
2 **QUIREMENT FOR EMPLOYER-OWNED LIFE IN-**
3 **SURANCE CONTRACTS.**

4 (a) **IN GENERAL.**—Subsection (h) of section 101 the
5 Internal Revenue Code of 1986 (relating to treatment of
6 certain employer-owned life insurance contracts) is amend-
7 ed by adding at the end the following new paragraph:

8 “(6) **SPECIAL RULE RELATING TO NOTICE AND**
9 **CONSENT.**—The notice and consent requirements of
10 paragraph (4) shall be treated as met with respect
11 to an employer-owned life insurance contract, if—

12 “(A) the requirements of subparagraphs
13 (A), (B), and (C) of such paragraph are met
14 with respect to the employee not later than 90
15 days after the later of—

16 “(i) the date of the issuance of such
17 contract, or

18 “(ii) the date the applicable policy-
19 holder first becomes the owner of such con-
20 tract, and

21 “(B) it is shown that failure to otherwise
22 meet the requirements of paragraph (4) is due
23 to reasonable cause and not to willful neglect.”.

24 (b) **EFFECTIVE DATE.**—The amendment made by
25 this section shall apply as if included in the enactment
26 of section 863 of the Pension Protection Act of 2006.

1 **SEC. 9. CLARIFICATION OF DEDUCTIBILITY OF CONTRIBU-**
2 **TIONS TO BOTH DEFINED CONTRIBUTION**
3 **PLANS AND DEFINED BENEFIT PLANS.**

4 (a) IN GENERAL.—Section 404(a)(3)(C)(iii) of the
5 Internal Revenue Code of 1986 is amended by striking “In
6 the case of” and all that follows through “exceed” and
7 inserting “Subparagraph (A) shall apply in the case of the
8 contributions to the plans referred to in subparagraph (A),
9 and trusts forming a part of such plans, only if, and to
10 the extent that, the total of all such contributions which
11 are made to defined contribution plans, or trusts forming
12 a part of defined contribution plans, exceed”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply as if included in the enactment
15 of section 803 of the Pension Protection Act of 2006.

16 **SEC. 10. CLARIFICATIONS RELATING TO TREATMENT OF**
17 **DISTRIBUTIONS FROM GOVERNMENTAL RE-**
18 **TIREMENT PLANS FOR HEALTH AND LONG-**
19 **TERM CARE INSURANCE FOR PUBLIC SAFETY**
20 **OFFICERS.**

21 (a) DEFINITION OF DEPENDENT.—Section 402(l)(1)
22 of the Internal Revenue Code of 1986 is amended by strik-
23 ing “(as defined in section 152)” and inserting “(as de-
24 fined in section 152, determined without regard to sub-
25 sections (b)(1), (b)(2), and (d)(1)(B) of section 152)”.

1 (b) CLARIFICATION OF DEFINITION OF QUALIFIED
 2 HEALTH INSURANCE PREMIUMS.—Section 402(l)(4)(D)
 3 of the Internal Revenue Code of 1986 is amended by add-
 4 ing at the end the following new sentence: “In the case
 5 of any such coverage provided under a self-insured ar-
 6 rangement, such term includes the cost of providing such
 7 coverage.”.

8 (c) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply as if included in the enactment
 10 of section 845 of the Pension Protection Act of 2006.

11 **SEC. 11. NON-SAFE HARBOR FORMULAS PERMITTED FOR**
 12 **COMBINED PLANS.**

13 (a) AMENDMENTS TO INTERNAL REVENUE CODE OF
 14 1986.—

15 (1) ELIMINATION OF SAFE HARBOR REQUIRE-
 16 MENT FOR COMBINED PLANS.—Subparagraph (A) of
 17 section 414(x)(2) of the Internal Revenue Code of
 18 1986 is amended—

19 (A) by striking clause (iv), and

20 (B) by striking “, and” at the end of
 21 clause (iii) and inserting a period.

22 (2) SAFE HARBOR MADE PERMISSIBLE.—

23 (A) IN GENERAL.—Paragraph (1) of sec-
 24 tion 414(x) of such Code is amended—

1 (i) by striking “(1) GENERAL
2 RULE.—Except as provided” and inserting
3 the following:

4 “(1) GENERAL RULES.—

5 “(A) TREATMENT OF ELIGIBLE COMBINED
6 PLAN.—Except as provided”, and

7 (ii) by adding at the end the following
8 new subparagraph:

9 “(B) PERMISSIBLE COMBINED PLAN SAFE
10 HARBOR.—

11 “(i) SATISFACTION OF NON-
12 DISCRIMINATION REQUIREMENTS FOR
13 QUALIFIED CASH OR DEFERRED ARRANGE-
14 MENTS.—A qualified cash or deferred ar-
15 rangement which is included in an applica-
16 ble defined contribution plan forming part
17 of a safe harbor eligible combined plan
18 shall be treated as meeting the require-
19 ments of section 401(k)(3)(A)(ii) if the re-
20 quirements of paragraph (2)(C) are met
21 with respect to such arrangement.

22 “(ii) SATISFACTION OF TOP-HEAVY
23 RULES.—A defined benefit plan and applica-
24 ble defined contribution plan forming
25 part of a safe harbor eligible combined

1 plan for any plan year shall be treated as
 2 meeting the requirements of section 416
 3 for the plan year.”.

4 (B) SAFE HARBOR ELIGIBLE COMBINED
 5 PLAN DEFINED.—Paragraph (2) of section
 6 414(x) of such Code is amended—

7 (i) in subparagraph (A), by redesignig-
 8 nating clauses (i), (ii), and (iii) as sub-
 9 clauses (I), (II), and (III), respectively,
 10 and moving such subclauses (as so redesignig-
 11 nated) 2 ems to the right, and

12 (ii) by striking “(2) ELIGIBLE COM-
 13 BINED PLAN.—” and all that follows
 14 through “(A) IN GENERAL.—The term”
 15 and inserting the following:

16 “(2) ELIGIBLE COMBINED PLANS.—For pur-
 17 poses of this subsection—

18 “(A) IN GENERAL.—

19 “(i) ELIGIBLE COMBINED PLAN.—The
 20 term”, and

21 (iii) by inserting after subparagraph
 22 (A)(i) (as amended by this subparagraph)
 23 the following new clause:

24 “(ii) SAFE HARBOR ELIGIBLE COM-
 25 BINED PLAN.—The term ‘safe harbor eligi-

1 ble combined plan’ means an eligible com-
2 bined plan with respect to which the ben-
3 efit, contribution, vesting, and non-
4 discrimination requirements of subpara-
5 graphs (B), (C), (D), (E), and (F) are
6 met.”.

7 (3) CONFORMING AMENDMENT.—(A) Para-
8 graph (3) of section 414(x) of such Code is amended
9 by striking “(3) NONDISCRIMINATION REQUIRE-
10 MENTS” and all that follows through “(B) MATCH-
11 ING CONTRIBUTIONS.—In applying” and inserting
12 the following:

13 “(3) CONTRIBUTION AND NOTICE REQUIRE-
14 MENTS RELATING TO MATCHING CONTRIBUTIONS.—
15 In applying”.

16 (B) Section 414(x) of such Code is amended by
17 striking paragraph (4) and renumbering paragraphs
18 (5), (6), and (7) as paragraphs (4), (5), and (6), re-
19 spectively.

20 (C) Paragraph (3) of section 414(x) of such
21 Code is amended by striking “paragraph (5)(B)”
22 and inserting “paragraph (4)(B)”.

23 (b) AMENDMENTS TO EMPLOYEE RETIREMENT IN-
24 COME SECURITY ACT OF 1974.—

1 (1) ELIMINATION OF SAFE HARBOR REQUIRE-
2 MENT FOR COMBINED PLANS.—Section 210(e)(2)(A)
3 of the Employee Retirement Income Security Act of
4 1974 (29 U.S.C. 1060(e)(2)(A)) is amended—

5 (A) by striking clause (iv), and

6 (B) by striking “, and” at the end of
7 clause (iii) and inserting a period.

8 (2) SAFE HARBOR MADE PERMISSIBLE.—

9 (A) IN GENERAL.—Section 210(e)(1) of
10 such Act (29 U.S.C. 1060(e)(1)) is amended—

11 (i) by striking “(1) GENERAL
12 RULE.—Except as provided” and inserting
13 the following:

14 “(1) GENERAL RULES.—

15 “(A) TREATMENT OF ELIGIBLE COMBINED
16 PLAN.—Except as provided”, and

17 (ii) by adding at the end the following
18 new subparagraph:

19 “(B) PERMISSIBLE COMBINED PLAN SAFE
20 HARBOR.—

21 “(i) SATISFACTION OF NON-
22 DISCRIMINATION REQUIREMENTS FOR
23 QUALIFIED CASH OR DEFERRED ARRANGE-
24 MENTS.—A qualified cash or deferred ar-
25 rangement which is included in an applica-

1 ble individual account plan forming part of
 2 a safe harbor eligible combined plan shall
 3 be treated as meeting the requirements of
 4 section 401(k)(3)(A)(ii) of the Internal
 5 Revenue Code of 1986 if the requirements
 6 of paragraph (2) are met with respect to
 7 such arrangement.”.

8 (B) SAFE HARBOR ELIGIBLE COMBINED
 9 PLAN DEFINED.—Section 210(e)(2) of such Act
 10 (29 U.S.C. 1060(e)(2)) is amended—

11 (i) in subparagraph (A) by redesignig-
 12 nating clauses (i), (ii), and (iii) as sub-
 13 clauses (I), (II), and (III), respectively,
 14 and moving such subclauses (as so redesignig-
 15 nated) 2 ems to the right, and

16 (ii) by striking “(2) ELIGIBLE COM-
 17 BINED PLAN.—” and all that follows
 18 through “(A) IN GENERAL.—The term”
 19 and inserting the following:

20 “(2) ELIGIBLE COMBINED PLANS.—For pur-
 21 poses of this subsection—

22 “(A) IN GENERAL.—

23 “(i) ELIGIBLE COMBINED PLAN.—The
 24 term”, and

1 (iii) by inserting after subparagraph
2 (A)(i) (as amended by this subparagraph)
3 the following new clause:

4 “(ii) SAFE HARBOR ELIGIBLE COM-
5 BINED PLAN.—The term ‘safe harbor eligi-
6 ble combined plan’ means an eligible com-
7 bined plan with respect to which the ben-
8 efit, contribution, vesting, and non-
9 discrimination requirements of subpara-
10 graphs (B), (C), (D), (E), and (F) are
11 met.”.

12 (3) CONFORMING AMENDMENTS.—Section
13 210(e) of such Act (29 U.S.C. 1060(e)) is amended
14 by striking “(3) NONDISCRIMINATION REQUIRE-
15 MENTS” and all that follows through “(B) MATCH-
16 ING CONTRIBUTIONS.—In applying” and inserting
17 the following:

18 “(3) CONTRIBUTION AND NOTICE REQUIRE-
19 MENTS RELATING TO MATCHING CONTRIBUTIONS.—
20 In applying”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply with respect to plan years begin-
23 ning after December 31, 2009.

1 **SEC. 12. SAFE HARBOR CASH BALANCE FORMULA TO**
2 **DEEMED TO MEET REQUIREMENTS OF SEC-**
3 **TIONS 401(a)(4) AND 411(B)(1).**

4 (a) AMENDMENTS TO INTERNAL REVENUE CODE OF
5 1986.—

6 (1) LIMITATION ON CASH BALANCE FOR-
7 MULA.—Subparagraph (B) of section 414(x)(2) of
8 the Internal Revenue Code of 1986 (relating to ben-
9 efit requirements) is amended by adding at the end
10 the following new clause:

11 “(v) LIMITATIONS ON MODIFIED CASH
12 BALANCE FORMULA.—In the case of a de-
13 fined benefit plan under which a partici-
14 pant over age 30 receives a pay credit for
15 the year which is greater than the min-
16 imum percentage of compensation for such
17 participant under the table described in
18 clause (iii), such plan shall be treated as
19 meeting the requirements of such clause
20 only if—

21 “(I) the ratio which such pay
22 credit (expressed as a percentage of
23 compensation) bears to the pay credit
24 (expressed as a percentage of com-
25 pensation) for the immediately pre-

1 ceding age bracket under the plan for
2 the year, is no greater than

3 “**(II)** the ratio which the min-
4 imum percentage for such participant
5 under such table bears to the min-
6 imum percentage for the immediately
7 preceding age bracket under such
8 table.”.

9 **(2) NONDISCRIMINATION AND BENEFIT RE-**
10 **QUIREMENTS.**—Subagraph (B) of section 414(x)
11 of such Code is amended by adding at the end the
12 following new clause:

13 “**(iii) SATISFACTION OF NON-**
14 **DISCRIMINATION AND BENEFIT REQUIRE-**
15 **MENTS FOR DEFINED BENEFIT PLANS.**—A
16 defined benefit plan forming part of a safe
17 harbor eligible combined plan shall be
18 treated as meeting the requirements of sec-
19 tions 401(a)(4) and 411(b)(1)(B) if the re-
20 quirements of paragraph (2)(B)(iii) are
21 met with respect to such arrangement.”.

22 **(b) AMENDMENTS TO EMPLOYEE RETIREMENT IN-**
23 **COME SECURITY ACT OF 1974.**—

24 **(1) LIMITATION ON CASH BALANCE FOR-**
25 **MULA.**—Section 210(e)(2)(B) of the Employee Re-

1 tirement Income Security Act of 1974 (29 U.S.C.
2 1060(e)(2)(B)) is amended by adding at the end the
3 following new clause:

4 “(v) LIMITATIONS ON MODIFIED CASH
5 BALANCE FORMULA.—In the case of a de-
6 fined benefit plan under which a partici-
7 pant over age 30 receives a pay credit for
8 the year which is greater than the min-
9 imum percentage of compensation for such
10 participant under the table described in
11 clause (iii), such plan shall be treated as
12 meeting the requirements of such clause
13 only if—

14 “(I) the ratio which such pay
15 credit (expressed as a percentage of
16 compensation) bears to the pay credit
17 (expressed as a percentage of com-
18 pensation) for the immediately pre-
19 ceding age bracket under the plan for
20 the year, is no greater than

21 “(II) the ratio which the min-
22 imum percentage for such participant
23 under such table bears to the min-
24 imum percentage for the immediately

1 preceding age bracket under such
2 table.”.

3 (2) NONDISCRIMINATION AND BENEFIT RE-
4 QUIREMENTS.—Section 210(e)(1) of such Act (29
5 U.S.C. 1060(e)(1)) is amended by adding at the end
6 the following new subparagraph:

7 “(ii) SATISFACTION OF NON-
8 DISCRIMINATION AND BENEFIT REQUIRE-
9 MENTS FOR DEFINED BENEFIT PLANS.—A
10 defined benefit plan forming part of a safe
11 harbor eligible combined plan shall be
12 treated as meeting the requirements of sec-
13 tion 204(b)(1)(B) if the requirements of
14 paragraph (2)(B)(iii) are met with respect
15 to such arrangement.”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply with respect to plan years begin-
18 ning after December 31, 2009.

19 **SEC. 13. SINGLE PARTICIPANT COMBINED PLANS.**

20 (a) AMENDMENT TO INTERNAL REVENUE CODE OF
21 1986.—The last sentence of section 414(x)(2)(A) of the
22 Internal Revenue Code of 1986 is amended by inserting
23 before the period at the end the following: “and by sub-
24 stituting ‘1’ for ‘2’ each place it appears. For purposes
25 of the preceding sentence, a self-employed individual de-

1 scribed in section 401(c)(1) shall be treated as an em-
2 ployee, and an employee who is a nonresident alien indi-
3 vidual who receives no earned income (within the meaning
4 of section 911(d)(2)) from the employer which constitutes
5 income from sources within the United States (within the
6 meaning of section 861(a)(3)) shall not be treated as an
7 employee.”

8 (b) AMENDMENT TO EMPLOYEE RETIREMENT IN-
9 COME SECURITY ACT OF 1974.—The last sentence of sec-
10 tion 210(e)(2)(A) of the Employee Retirement Income Se-
11 curity Act of 1974 (29 U.S.C. 1060(e)(2)(A)) is amended
12 by inserting before the period at the end the following:
13 “and by substituting ‘1’ for ‘2’ each place it appears. For
14 purposes of the preceding sentence, a self-employed indi-
15 vidual described in section 401(c)(1) of such Code shall
16 be treated as an employee, and an employee who is a non-
17 resident alien individual who receives no earned income
18 (within the meaning of section 911(d)(2) of such Code)
19 from the employer which constitutes income from sources
20 within the United States (within the meaning of section
21 861(a)(3) of such Code) shall not be treated as an em-
22 ployee.”

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply as if included in the enactment
25 of section 903 of the Pension Protection Act of 2006.

1 **SEC. 14. MATCHING CONTRIBUTIONS PROVIDED THROUGH**
2 **CASH BALANCE PLAN.**

3 (a) IN GENERAL.—

4 (1) ADDITIONAL ACCRUALS UNDER DEFINED
5 BENEFIT PLAN FORMING PART OF ELIGIBLE COM-
6 BINED PLAN PROVIDED AS MATCHING CONTRIBU-
7 TIONS.—

8 (A) CERTAIN ARRANGEMENTS UNDER DE-
9 FINED BENEFIT PLAN SATISFY DEFINITELY DE-
10 TERMINABLE BENEFIT REQUIREMENT.—Sub-
11 section (a) of section 401 of the Internal Rev-
12 enue Code of 1986 is amended by inserting
13 after paragraph (37) the following new para-
14 graph:

15 “(38) QUALIFIED MATCHING ACCRUAL UNDER
16 ELIGIBLE COMBINED PLAN SATISFIES DEFINITELY
17 DETERMINABLE BENEFIT REQUIREMENT.—A trust
18 forming part of a defined benefit plan which forms
19 part of an eligible combined plan (as defined in sec-
20 tion 414(x)) shall not be treated as failing to con-
21 stitute a qualified trust merely because such plan in-
22 cludes qualified matching accruals (as defined in
23 subsection (m)(13)).”.

24 (B) MATCHING ACCRUALS.—Subsection
25 (m) of section 401 of such Code is amended by
26 redesignating paragraph (13) as paragraph

1 (14) and by inserting after paragraph (12) the
2 following new paragraph:

3 “(13) SPECIAL RULES RELATING TO QUALIFIED
4 MATCHING ACCRUALS UNDER A ELIGIBLE COMBINED
5 PLAN.—For purposes of this section—

6 “(A) QUALIFIED MATCHING ACCRUAL.—
7 The term ‘qualified matching accrual’ means an
8 amount funded by an employer in the form of
9 a benefit accrual under a defined benefit plan
10 forming part of an eligible combined plan (as
11 defined in section 414(x)) to match elective de-
12 ferrals under a qualified cash or deferred ar-
13 rangement which is part of such eligible com-
14 bined plan (as so defined) and which meets the
15 formula requirements of subparagraph (B). The
16 benefit accrual shall be determined under a
17 nondiscretionary formula set forth in the de-
18 fined benefit plan. For purposes of determining
19 such benefit accrual, the amount of elective de-
20 ferrals taken into account under such formula
21 may be limited under the plan.

22 “(B) FORMULA REQUIREMENTS.—A ben-
23 efit accrual meets the requirements of this sub-
24 paragraph if such accrual is a hypothetical con-
25 tribution that is added to a participant’s hypo-

1 thetical account balance, the amount of which is
2 determined, in accordance with the matching
3 accrual formula set forth in the plan, with ref-
4 erence to the amount of the elective deferrals
5 made by the participant for the plan year to a
6 qualified cash or deferred arrangement which is
7 part of the eligible combined plan (as defined in
8 section 414(x)). Matching accruals under the
9 formula may vary with age or other employ-
10 ment-related factors.

11 “(C) COORDINATE WITH EMPLOYER CON-
12 TRIBUTIONS.—For purposes of paragraph (4),
13 the term ‘employer contributions’ shall not in-
14 clude any amount contributed by an employer
15 to a defined benefit plan for the purpose of
16 funding any qualified matching accruals.

17 “(D) SAFE HARBOR FORMULA.—A quali-
18 fied matching accrual formula shall be deemed
19 to satisfy subsection (a)(4) if it satisfies the re-
20 quirements of clauses (i) and (ii).

21 “(i) ELECTIVE DEFERRALS AT OR
22 ABOVE MAXIMUM MATCHABLE RATE.—For
23 an employee who makes elective deferrals
24 at or above the maximum matchable rate,
25 the qualified matching benefit accrual for

1 the plan year is a hypothetical allocation
2 under a cash balance plan that equals a
3 percentage (not greater than 4 percent) of
4 compensation (as defined in section
5 414(s)).

6 “(ii) ELECTIVE DEFERRALS BELOW
7 MAXIMUM MATCHABLE RATE.—For em-
8 ployees who make elective deferrals at a
9 rate that is below the maximum matchable
10 rate, the qualified matching benefit accrual
11 for such plan year shall be prorated. The
12 plan may prorate the qualified benefit ac-
13 crual on the basis of whole percentages,
14 and the plan may require that an employ-
15 ee’s elective deferrals be stated as whole
16 percentages.

17 “(iii) MAXIMUM MATCHABLE RATE.—
18 For purposes of this subparagraph, the
19 maximum matchable rate must be a speci-
20 fied percentage of compensation which
21 does not exceed 4 percent.

22 “(iv) CASH BALANCE PLAN DE-
23 FINED.—For purposes of clause (i), a cash
24 balance plan is a defined benefit plan that
25 defines an employee’s benefits by reference

1 to the employee's hypothetical account.
2 Such hypothetical account is determined by
3 reference, first, to hypothetical contribu-
4 tion allocations, and, second, to hypo-
5 thetical interest credits (on an annual or
6 more frequent basis). The right to future
7 interest credits are determined without re-
8 gard to future service.”.

9 (C) EXCEPTION TO BENEFIT CONTIN-
10 GENCY RULE.—Subparagraph (A) of section
11 401(k)(4) of such Code is amended by inserting
12 “or qualified matching accruals (as defined in
13 subsection (m)(13))” after “section 401(m))”.

14 (D) FORFEITURES BY REASON OF EXCESS
15 DEFERRAL.—Subparagraph (G) of section
16 411(a)(3) of the Code is amended by adding at
17 the end the following: “A rule similar to the
18 rule of the preceding sentence shall apply with
19 respect to qualified matching accruals (as de-
20 fined in section 401(m)(13)).”

21 (E) ACCRUED BENEFIT REQUIREMENT
22 WITH RESPECT TO MATCHING ACCRUALS.—
23 Paragraph (1) of section 411(b) of such Code
24 is amended by adding at the end the following
25 new subparagraph:

1 “(I) In the case of qualified matching ac-
2 cruals (as defined in section 401(m)(13)), the
3 requirements for accrued benefits set forth in
4 subparagraphs (A) through (H) of this sub-
5 section shall be applied on the basis of the rate
6 of matching accruals available to participants,
7 without regard to the actual elective deferrals
8 made by participants.”.

9 (F) PARTICIPATION REQUIREMENTS WITH
10 RESPECT TO QUALIFIED MATCHING ACCRU-
11 ALS.—Paragraph (26) of section 401(a) of such
12 Code is amended by redesignating subpara-
13 graph (H) as subparagraph (I), and by insert-
14 ing after subparagraph (G) the following new
15 subparagraph:

16 “(H) SPECIAL TESTING RULES FOR QUALI-
17 FIED MATCHING ACCRUALS.—

18 “(i) If an eligible combined plan (as
19 defined in section 414(x)) includes quali-
20 fied matching accruals (as defined in sec-
21 tion 401(m)(13)), the rules in clauses (ii)
22 and (iii) shall apply.

23 “(ii) QUALIFIED MATCHING ACCRUALS
24 ONLY BENEFIT FORMULA.—If the only
25 benefit formula in the defined benefit plan

1 forming a part of the eligible combined
2 plan is a qualified matching accrual for-
3 mula, the requirements of this paragraph
4 shall be applied by treating a participant's
5 annual benefit accrual as the maximum ac-
6 crual that was available to the participant
7 for the plan year, regardless of whether the
8 maximum matchable elective deferrals were
9 actually made by the participant. If the
10 qualified matching accrual formula applies
11 to elective deferrals in excess of 6 percent
12 of compensation, then the requirements of
13 this paragraph must be applied by taking
14 into account the actual matching accruals
15 earned by participants for the plan year.

16 “(iii) MULTIPLE FORMULAS.—If the
17 defined benefit plan includes one or more
18 benefit formulas in addition to a qualified
19 matching accrual formula, the employer
20 may elect to apply clause (ii) to the quali-
21 fied matching accrual formulas only if the
22 requirements of this paragraph are satis-
23 fied separately with respect to the benefit
24 accruals that are determined without re-

1 gard to the qualified matching accrual for-
2 mula.”.

3 (G) REGULATIONS FOR MEETING NON-
4 DISCRIMINATION REQUIREMENTS.—

5 (i) IN GENERAL.—The Secretary of
6 the Treasury shall prescribe regulations on
7 ways in which qualified matching accruals
8 (as defined by section 401(m)(13) of the
9 Internal Revenue Code of 1986, as added
10 by this section) that do not satisfy the for-
11 mula requirements of section
12 401(m)(13)(D) of such Code (as enacted
13 by subsection (b) of this section) can sat-
14 isfy the nondiscrimination requirements of
15 section 401(a)(4) of such Code. The regu-
16 lations may prescribe safe harbor formulas
17 in addition to those prescribed by section
18 401(m)(13)(D).

19 (ii) TEMPORARY AND FINAL FORM.—
20 The Secretary shall prescribe the regula-
21 tions required by clause (i) in temporary
22 form not later than 6 months after the ef-
23 fective date of this section and in final
24 form not later than 18 months after the
25 effective date of this section.

1 (H) PLAN YEARS BEGINNING BEFORE
2 ISSUANCE OF REGULATIONS.—For plan years
3 beginning prior to the date the regulations de-
4 scribed in subsection (g) are issued in final
5 form (and after the effective date of this sec-
6 tion), a plan’s qualified matching accrual for-
7 mula must satisfy a reasonable, good faith, in-
8 terpretation of section 401(a)(4) of such Code.

9 (2) CASH BALANCE MATCHING TO SATISFY
10 CONTRIBUTION SAFE HARBOR FOR COMBINED
11 PLAN.—Subparagraph (C) of section 414(x)(2) of
12 such Code is amended by adding at the end the fol-
13 lowing new clause:

14 “(iii) SPECIAL RULE FOR MATCHING
15 PAY CREDITS.—If the defined benefit plan
16 forming part of the eligible combined plan
17 is an applicable defined benefit plan as de-
18 fined in section 411(a)(13)(B) which meets
19 the interest credit requirements of section
20 411(b)(5)(B)(i), the plan shall be treated
21 as meeting the requirements of clause (i) if
22 with respect to any plan year each partici-
23 pant receives a matching pay credit in an
24 amount equal to 50 percent of so much of
25 the pay credit otherwise received by the

1 participant as does not exceed 4 percent of
2 compensation. A plan shall not fail to meet
3 the requirements of sections 401(a)(4) and
4 411(b)(1) merely because the plan provides
5 matching pay credit as provided in this
6 clause.”.

7 (b) EFFECTIVE DATE.—The amendments made by
8 this section shall apply with respect to plan years begin-
9 ning after December 31, 2009.

10 **SEC. 15. ESOP MAY FORM PART OF ELIGIBLE COMBINED**
11 **PLAN.**

12 (a) AMENDMENT TO INTERNAL REVENUE CODE OF
13 1986.—Paragraph (6) of section 414(x) of the Internal
14 Revenue Code of 1986 (defining applicable defined con-
15 tribution plan), as amended by this Act) is amended by
16 adding at the end the following new subparagraph:

17 “(C) ESOP.—An applicable defined con-
18 tribution plan forming part of an eligible com-
19 bined plan may include an employee stock own-
20 ership plan (as defined in section 4975(e)(7)).”.

21 (b) AMENDMENT TO EMPLOYEE RETIREMENT IN-
22 COME SECURITY ACT OF 1974.—Section 210(e)(6) of the
23 Employee Retirement Income Security Act of 1974 (29
24 U.S.C. 1060(e)(6)) is amended by adding at the end the
25 following new subparagraph:

1 “(C) ESOP.—An applicable individual ac-
2 count plan forming part of an eligible combined
3 plan may include an employee stock ownership
4 plan (as defined in section 4975(e)(7) of the In-
5 ternal Revenue Code of 1986).”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply with respect to plan years begin-
8 ning after December 31, 2009.

9 **SEC. 16. SPECIAL FUNDING TARGET RULE FOR PLANS COM-**
10 **PUTING ACCRUED BENEFITS BY REFERENCE**
11 **TO HYPOTHETICAL ACCOUNT BALANCE.**

12 (a) AMENDMENT TO INTERNAL REVENUE CODE
13 1986.—Paragraph (1) of section 436(j) of the Internal
14 Revenue Code of 1986 (defining funding target attain-
15 ment percentage) is amended by adding at the end the
16 following: “For purposes of the preceding sentence, in the
17 case of a defined benefit plan under which the accrued
18 benefit (or portion thereof) is expressed as the balance of
19 a hypothetical account, the funding target with respect to
20 such benefits shall be the lesser of—

21 “(A) the funding target with respect to
22 such benefits determined under such section
23 (without regard to this sentence), or

24 “(B) the aggregate balance of the hypo-
25 thetical accounts.”.

1 (b) AMENDMENT TO EMPLOYEE RETIREMENT IN-
2 COME SECURITY ACT OF 1974.—Section 206(g)(9)(A) of
3 the Employee Retirement Income Security Act of 1974
4 (29 U.S.C. 1056(g)(9)(A)) is amended by adding at the
5 end the following: “For purposes of the preceding sen-
6 tence, in the case of a defined benefit plan under which
7 the accrued benefit (or portion thereof) is expressed as
8 the balance of a hypothetical account, the funding target
9 with respect to such benefits shall be the lesser of—

10 “(i) the funding target with respect to
11 such benefits determined under such sec-
12 tion (without regard to this sentence), or

13 “(ii) the aggregate balance of the hy-
14 pothetical accounts.”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply with respect to plan years begin-
17 ning after December 31, 2008.

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