

BILL TEXT  
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110th CONGRESS

1st Session

# S. 1974

## AN ACT

To make technical corrections related to the [Pension Protection Act of 2006](#).

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### **SECTION 1. SHORT TITLE; REFERENCES TO ACTS.**

(a) In General.—This Act may be cited as the “Pension Protection Technical Corrections Act of 2007”.

(b) References to Acts.—For purposes of this Act—

(1) AMENDMENT OF 1986 CODE.—The term “1986 Code” means the Internal Revenue Code of 1986.

(2) AMENDMENT OF ERISA.—The term “ERISA” means the [Employee Retirement Income Security Act of 1974](#).

(3) 2006 ACT.—The term “2006 Act” means the [Pension Protection Act of 2006](#).

### **SEC. 2. AMENDMENTS RELATED TO TITLE I.**

(a) Amendments Related to Sections 101 and 111.—

(1) AMENDMENTS TO ERISA.—

(A) Clause (i) of section 302(c)(1)(A) of ERISA is amended by striking “the plan is” and inserting “the plan are”.

(B) Section 302(c)(7) of ERISA is amended by inserting “which reduces the accrued benefit of any participant” after “subsection (d)(2)” in subparagraph (A).

(C) Section 302(d)(1) of ERISA is amended by striking “, the valuation date,”.

(2) AMENDMENTS TO 1986 CODE.—

(A) Clause (i) of section 412(c)(1)(A) of the 1986 Code is amended by striking “the plan is” and inserting “the plan are”.

(B) Section 412(c)(7) of the 1986 Code is amended by inserting “which reduces the accrued benefit of any participant” after “subsection (d)(2)” in subparagraph (A).

(C) Section 412(d)(1) of the 1986 Code is amended by striking “, the valuation date,”.

(b) Amendments Related to Sections 102 and 112.—

(1) AMENDMENTS TO ERISA.—

(A) Section 303(b) of ERISA is amended to read as follows:

“(b) Target Normal Cost.—For purposes of this section—

“(1) IN GENERAL.—Except as provided in subsection (i)(2) with respect to plans in at-risk status, the term ‘target normal cost’ means, for any plan year, the excess of—

“(A) the sum of—

“(i) the present value of all benefits which are expected to accrue or to be earned under the plan during the plan year, plus

“(ii) the amount of plan-related expenses expected to be paid from plan assets during the plan

year, over

“(B) the amount of mandatory employee contributions expected to be made during the plan year.

“(2) SPECIAL RULE FOR INCREASE IN COMPENSATION.—For purposes of this subsection, if any benefit attributable to services performed in a preceding plan year is increased by reason of any increase in compensation during the current plan year, the increase in such benefit shall be treated as having accrued during the current plan year.”.

(B) Section 303(c)(5)(B)(iii) of ERISA is amended by inserting “beginning” before “after 2008”.

(C) Section 303(c)(5)(B)(iv)(II) of ERISA is amended by inserting “for such year” after “beginning in 2007”.

(D) Section 303(f)(4)(A) of ERISA is amended by striking “paragraph (2)” and inserting “paragraph (3)”.

(E) Section 303(h)(2)(F) of ERISA is amended—

(i) by striking “section 205(g)(3)(B)(iii)(I) for such month” and inserting “section 205(g)(3)(B)(iii)(I) for such month”, and

(ii) by striking “subparagraph (B)” and inserting “subparagraph (C)”.

(F) Section 303(i) of ERISA is amended—

(i) in paragraph (2)—

(I) by striking subparagraph (A) and inserting the following new subparagraph:

“(A) the excess of—

“(i) the sum of—

“(I) the present value of all benefits which are expected to accrue or to be earned under the plan during the plan year, determined using the additional actuarial assumptions described in paragraph (1)(B), plus

“(II) the amount of plan-related expenses expected to be paid from plan assets during the plan year, over

“(ii) the amount of mandatory employee contributions expected to be made during the plan year, plus”, and

(II) in subparagraph (B), by striking “the target normal cost (determined without regard to this paragraph) of the plan for the plan year” and inserting “the amount determined under subsection (b)(1)(A)(i) with respect to the plan for the plan year”, and

(ii) by striking “subparagraph (A)(ii)” in the last sentence of paragraph (4)(B) and inserting “subparagraph (A)”.

(G) Section 303(j)(3) of ERISA—

(i) is amended by adding at the end of subparagraph (A) the following new sentence: “In the case of plan years beginning in 2008, the funding shortfall for the preceding plan year may be determined using such methods of estimation as the Secretary of the Treasury may provide.”,

(ii) by adding at the end of subparagraph (E) the following new clause:

“(iii) PLAN WITH ALTERNATE VALUATION DATE.—The Secretary of the Treasury shall prescribe regulations for the application of this paragraph in the case of a plan which has a valuation date other than the first day of the plan year.”, and

(iii) by striking “AND SHORT YEARS” in the heading of subparagraph (E) and inserting “, SHORT YEARS, AND YEARS WITH ALTERNATE VALUATION DATE”.

(H) Section 303(k)(6)(B) of ERISA is amended by striking “, except” and all that follows and inserting a period.

(2) AMENDMENTS TO 1986 CODE.—

(A) Section 430(b) of the 1986 Code is amended to read as follows:

“(b) Target Normal Cost.—For purposes of this section—

“(1) IN GENERAL.—Except as provided in subsection (i)(2) with respect to plans in at-risk status, the term ‘target normal cost’ means, for any plan year, the excess of—

“(A) the sum of—

“(i) the present value of all benefits which are expected to accrue or to be earned under the plan during the plan year, plus

“(ii) the amount of plan-related expenses expected to be paid from plan assets during the plan year, over

“(B) the amount of mandatory employee contributions expected to be made during the plan year.

“(2) SPECIAL RULE FOR INCREASE IN COMPENSATION.—For purposes of this subsection, if any benefit attributable to services performed in a preceding plan year is increased by reason of any increase in compensation during the current plan year, the increase in such

benefit shall be treated as having accrued during the current plan year.”.

(B) Section 430(c)(5)(B)(iii) of the 1986 Code is amended by inserting “beginning” before “after 2008”.

(C) Section 430(c)(5)(B)(iv)(II) of the 1986 Code is amended by inserting “for such year” after “beginning in 2007”.

(D) Section 430(f) of the 1986 Code is amended—

(i) by striking “as of the first day of the plan year” the second place it appears in the first sentence of paragraph (3)(A),

(ii) by striking “paragraph (2)” in paragraph (4)(A) and inserting “paragraph (3)”,

(iii) by striking “paragraph (1), (2), or (4) of section 206(g)” in paragraph (6)(B)(iii) and inserting “subsection (b), (c), or (e) of section 436”,

(iv) by striking “the sum of” in paragraph (6)(C), and

(v) by striking “of the Treasury” in paragraph (8).

(E) Section 430(h)(2) of the 1986 Code is amended—

(i) by inserting “and target normal cost” after “funding target” in subparagraph (B),

(ii) by striking “liabilities” and inserting “benefits” in subparagraph (B),

(iii) by striking “section 417(e)(3)(D)(i) for such month” in subparagraph (F) and inserting

“section 417(e)(3)(D)(i) for such month”, and

(iv) by striking “subparagraph (B)” in subparagraph (F) and inserting “subparagraph (C)”.

(F) Section 430(i) of the 1986 Code is amended—

(i) in paragraph (2)—

(I) by striking subparagraph (A) and inserting the following new subparagraph:

“(A) the excess of—

“(i) the sum of—

“(I) the present value of all benefits which are expected to accrue or to be earned under the plan during the plan year, determined using the additional actuarial assumptions described in paragraph (1)(B), plus

“(II) the amount of plan-related expenses expected to be paid from plan assets during the plan year, over

“(ii) the amount of mandatory employee contributions expected to be made during the plan year, plus”, and

(II) in subparagraph (B), by striking “the target normal cost (determined without regard to this paragraph) of the plan for the plan year” and inserting “the amount determined under subsection (b)(1)(A)(i) with respect to the plan for the plan year”, and

(ii) by striking “subparagraph (A)(ii)” in the last sentence of paragraph (4)(B) and inserting “subparagraph (A)”.

(G) Section 430(j)(3) of the 1986 Code is amended—

(i) by adding at the end of subparagraph (A) the following new sentence: “In the case of plan years beginning in 2008, the funding shortfall for the preceding plan year may be determined using such methods of estimation as the Secretary may provide.”,

(ii) by striking “section 302(c)” in subparagraph (D)(ii)(II) and inserting “section 412(c)”,

(iii) by adding at the end of subparagraph (E) the following new clause:

“(iii) PLAN WITH ALTERNATE VALUATION DATE.—The Secretary shall prescribe regulations for the application of this paragraph in the case of a plan which has a valuation date other than the first day of the plan year.”, and

(iv) by striking “AND SHORT YEARS” in the heading of subparagraph (E) and inserting “, SHORT YEARS, AND YEARS WITH ALTERNATE VALUATION DATE”.

(H) Section 430(k) of the 1986 Code is amended—

(i) by inserting “(as provided under paragraph (2))” after “applies” in paragraph (1), and

(ii) by striking “, except” and all that follows in paragraph (6)(B) and inserting a period.

(c) Amendments Related to Sections 103 and 113.—

(1) AMENDMENTS TO ERISA.—

(A) Section 101(j) of ERISA is amended—

(i) in paragraph (2), by striking “section 206(g)(4)(B)” and inserting “section 206(g)(4)(A)”; and

(ii) by adding at the end the following: “The Secretary of the Treasury, in consultation with the Secretary, shall have the authority to prescribe rules applicable to the notices required under this subsection.”.

(B) Section 206(g)(1)(B)(ii) of ERISA is amended by striking “a funding” and inserting “an adjusted funding”.

(C) The heading for section 206(g)(1)(C) of ERISA is amended by inserting “BENEFIT” after “EVENT”.

(D) Section 206(g)(3)(E) of ERISA is amended by adding at the end the following new flush sentence:

“Such term shall not include the payment of a benefit which under section 203(e) may be immediately distributed without the consent of the participant.”.

(E) Section 206(g)(5)(A)(iv) of ERISA is amended by inserting “adjusted” before “funding”.

(F) Section 206(g)(9)(C) of ERISA is amended—

(i) by striking “without regard to this subparagraph and” in clause (i), and

(ii) in clause (iii)—

(I) by striking “without regard to this subparagraph” and inserting “without regard to the reduction in the value of assets under section 303(f)(4)”, and

(II) by inserting “beginning” before “after” each place it appears.

(G) Section 206(g) of ERISA is amended by redesignating paragraph (10) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

“(10) SECRETARIAL AUTHORITY FOR PLANS WITH ALTERNATE VALUATION DATE.—In the case of a plan which has designated a valuation date other than the first day of the plan year, the Secretary of the Treasury may prescribe rules for the application of this subsection which are necessary to reflect the alternate valuation date.”.

(H) Section 502(c)(4) of ERISA is amended by striking “by any person” and all that follows through the period and inserting “by any person of subsection (j), (k), or (l) of section 101 or section 514(e)(3).”.

(2) AMENDMENTS TO 1986 CODE.—

(A) Section 436(b)(2) of the 1986 Code is amended—

(i) by striking “section 303” and inserting “section 430” in the matter preceding subparagraph (A), and

(ii) by striking “a funding” and inserting “an adjusted funding” in subparagraph (B).

(B) Section 436(b)(3) of the 1986 Code is amended—

(i) by inserting “BENEFIT” after “EVENT” in the heading, and

(ii) by striking “any event” in subparagraph (B) and inserting “an event”.

(C) Section 436(d)(5) of the 1986 Code is amended by adding at the end the following new flush sentence:

“Such term shall not include the payment of a benefit which under section 411(a)(11) may be immediately distributed without the consent of the participant.”.

(D) Section 436(f) of the 1986 Code is amended—

(i) by inserting “adjusted” before “funding” in paragraph (1)(D), and

(ii) by striking “prefunding balance under section 430(f) or funding standard carryover balance” in paragraph (2) and inserting “prefunding balance or funding standard carryover balance under section 430(f)”.

(E) Section 436(j)(3) of the 1986 Code is amended—

(i) in subparagraph (A)—

(I) by striking “without regard to this paragraph and”,

(II) by striking “section 430(f)(4)(A)” and inserting “section 430(f)(4)”, and

(III) by striking “paragraph (1)” and inserting “paragraphs (1) and (2)”, and

(ii) in subparagraph (C)—

(I) by striking “without regard to this paragraph” and inserting “without regard to the reduction in the value of assets under section 430(f)(4)”, and

(II) by inserting “beginning” before “after” each place it appears.

(F) Section 436 of the 1986 Code is amended by redesignating subsection (k) as subsection (m) and by inserting after subsection (j) the following new subsections:

“(k) Secretarial Authority for Plans With Alternate Valuation Date.—In the case of a plan which has designated a valuation date other than the first day of the plan year, the Secretary may prescribe rules for the application of this section which are necessary to reflect the alternate valuation date.

“(l) Single-Employer Plan.—For purposes of this section, the term ‘single-employer plan’ means a plan which is not a multiemployer plan.”.

(3) AMENDMENTS TO 2006 ACT.—Sections 103(c)(2)(A)(ii) and 113(b)(2)(A)(ii) of the 2006 Act are each amended—

(A) by striking “subsection” and inserting “section”, and

(B) by striking “subparagraph” and inserting “paragraph”.

(d) Amendments Related to Sections 107 and 114.—

(1) AMENDMENTS TO ERISA.—

(A) Section 103(d) of ERISA is amended—

(i) in paragraph (3), by striking “the normal costs, the accrued liabilities” and inserting “the normal costs or target normal costs, the accrued liabilities or funding target”, and

(ii) by striking paragraph (7) and inserting the following new paragraph:

“(7) A certification of the contribution necessary to reduce the minimum required contribution determined under section 303, or the accumulated funding deficiency determined under section 304, to zero.”.

(B) Section 4071 of ERISA is amended by striking “as section 303(k)(4) or 307(e)” and inserting “or section 303(k)(4),”.

(2) AMENDMENTS TO 1986 CODE.—

(A) Section 401(a)(29) of the 1986 Code is amended by striking “ON PLANS IN AT-RISK STATUS” in the heading.

(B) Section 401(a)(32)(C) of the 1986 Code is amended—

(i) by striking “section 430(j)” and inserting “section 430(j)(3)”, and

(ii) by striking “paragraph (5)(A)” and inserting “section 430(j)(4)(A)”.

(C) Section 401(a)(33) of the 1986 Code is amended—

(i) by striking “section 412(c)(2)” in subparagraph (B)(iii) and inserting “section 412(d)(2)”, and

(ii) by striking “section 412(b)(2) (without regard to subparagraph (B) thereof)” in subparagraph (D) and inserting “section 412(b)(1), without regard to section 412(b)(2)”.

(D) Section 411 of the 1986 Code is amended—

(i) by striking “section 412(c)(2)” in subsection (a)(3)(C) and inserting “section 412(d)(2)”, and

(ii) by striking “section 412(e)(2)” in subsection (d)(6)(A) and inserting “section 412(d)(2)”.

(E) Section 414(l)(2)(B)(i)(I) of the 1986 Code is amended to read as follows:

“(I) the sum of the funding target and target normal cost determined under section 430, over”.

(F) Section 4971 of the 1986 Code is amended—

(i) by striking “required minimum” in subsection (b)(1) and inserting “minimum required”,

(ii) by inserting “or unpaid minimum required contribution, whichever is applicable” after “accumulated funding deficiency” each place it appears in subsections (c)(3) and (d)(1), and

(iii) by striking “section 412(a)(1)(A)” in subsection (e)(1) and inserting “section 412(a)(2)”.

(3) AMENDMENT TO 2006 ACT.—Section 114 of the 2006 Act is amended by adding at the end the following new subsection:

“(g) Effective Dates.—

“(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after 2007.

“(2) EXCISE TAX.—The amendments made by subsection (e) shall apply to taxable years beginning after 2007, but only with respect to plan years described in paragraph (1) which end with or within any such taxable year.”.

(e) Amendment Related to Section 116.—Section 409A(b)(3)(A)(ii) of the 1986 Code is amended by inserting “to an applicable covered employee” after “under the plan”.

### **SEC. 3. AMENDMENTS RELATED TO TITLE II.**

(a) Amendment Related to Sections 201 and 211.—Section 201(b)(2)(A) of the 2006 Act is amended by striking “has not used” and inserting “has not adopted, or ceased using,”.

(b) Amendments Related to Sections 202 and 212.—

(1) AMENDMENTS TO ERISA.—

(A) Section 305(b)(3)(C) of ERISA is amended by striking “section 101(b)(4)” and inserting “section 101(b)(1)”.

(B) Section 305(b)(3)(D) of ERISA is amended by striking “The Secretary” in clause (iii) and inserting “The Secretary of the Treasury, in consultation with the Secretary”.

(C) Section 305(c)(7) of ERISA is amended—

(i) by striking “to agree on” and all that follows in subparagraph (A)(ii) and inserting “to adopt a contribution schedule with terms consistent with the funding improvement plan and a schedule from the plan sponsor,”, and

(ii) by striking subparagraph (B) and inserting the following new subparagraph:

“(B) DATE OF IMPLEMENTATION.—The date specified in this subparagraph is the date which is 180 days after the date on which the collective bargaining agreement described in subparagraph (A) expires.”, and

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

“(C) FAILURE TO MAKE SCHEDULED CONTRIBUTIONS.—Any failure to make a contribution under a schedule of contribution rates provided under this paragraph shall be treated as a delinquent contribution under section 515 and shall be enforceable as such.”.

(D) Section 305(e) of ERISA is amended—

(i) in paragraph (3)(C)—

(I) by striking all that follows “to adopt a” in clause (i)(II) and inserting “to adopt a contribution schedule with terms consistent with the rehabilitation plan and a schedule from the plan sponsor under paragraph (1)(B)(i),”,

(II) by striking clause (ii) and inserting the following new clause:

“(ii) DATE OF IMPLEMENTATION.—The date specified in this clause is the date which is 180 days after the date on which the collective bargaining agreement described in clause (i)

expires.”, and

(III) by adding at the end the following new clause:

“(iii) FAILURE TO MAKE SCHEDULED CONTRIBUTIONS.—Any failure to make a contribution under a schedule of contribution rates provided under this subsection shall be treated as a delinquent contribution under section 515 and shall be enforceable as such.”,

(ii) in paragraph (4)—

(I) by striking “the date of” in subparagraph (A)(ii), and

(II) by striking “and taking” in subparagraph (B) and inserting “but taking”,

(iii) in paragraph (6)—

(I) by striking “paragraph (1)(B)(i)” and inserting “the last sentence of paragraph (1)”, and

(II) by striking “established” and inserting “establish”,

(iv) in paragraph (8)(C)(iii)—

(I) by striking “the Secretary” in subclause (I) and inserting “the Secretary of the Treasury, in consultation with the Secretary”, and

(II) by striking “Secretary” in the last sentence and inserting “Secretary of the Treasury”, and

(v) by striking “an employer’s withdrawal liability” in paragraph (9)(B) and inserting “the allocation of unfunded vested benefits to an employer”.

(E) Section 305(g) of ERISA is amended by inserting “under subsection (c)” after “funding improvement plan” the first place it appears.

(F) Section 302(b)(3) of ERISA is amended by striking “the plan adopts” and inserting “the plan sponsor adopts”.

(G) Section 502(c)(2) of ERISA is amended by striking “101(b)(4)” and inserting “101(b)(1)”.

(H) Section 502(c)(8)(A) of ERISA is amended by inserting “plan” after “multiemployer”.

(2) AMENDMENTS TO 1986 CODE.—

(A) Section 432(b)(3)(C) of the 1986 Code is amended by striking “section 101(b)(4)” and inserting “section 101(b)(1)”.

(B) Section 432(b)(3)(D)(iii) of the 1986 Code is amended by striking “The Secretary of Labor” and inserting “The Secretary, in consultation with the Secretary of Labor”.

(C) Section 432(c) of the 1986 Code is amended—

(i) in paragraph (3), by striking “section 304(d)” in subparagraph (A)(ii) and inserting “section 431(d)”, and

(ii) in paragraph (7)—

(I) by striking “to agree on” and all that follows in subparagraph (A)(ii) and inserting “to adopt a contribution schedule with terms consistent with the funding improvement plan and a schedule from the plan sponsor,”, and

(II) by striking subparagraph (B) and inserting the following new subparagraph:

“(B) DATE OF IMPLEMENTATION.—The date specified in this subparagraph is the date which is 180 days after the date on which the collective bargaining agreement described in subparagraph (A) expires.”.

(D) Section 432(e) of the 1986 Code is amended—

(i) in paragraph (3)(C)—

(I) by striking all that follows “to adopt a” in clause (i)(II) and inserting “to adopt a contribution schedule with terms consistent with the rehabilitation plan and a schedule from the plan sponsor under paragraph (1)(B)(i),”, and

(II) by striking clause (ii) and inserting the following new clause:

“(ii) DATE OF IMPLEMENTATION.—The date specified in this clause is the date which is 180 days after the date on which the collective bargaining agreement described in clause (i) expires.”,

(ii) in paragraph (4)—

(I) by striking “the date of” in subparagraph (A)(ii), and

(II) by striking “and taking” in subparagraph (B) and inserting “but taking”,

(iii) in paragraph (6)—

(I) by striking “paragraph (1)(B)(i)” and inserting “the last sentence of paragraph (1)”, and

(II) by striking “established” and inserting “establish”,

(iv) in paragraph (8)—

(I) by striking “section 204(g)” in subparagraph (A)(i) and inserting “section 411(d)(6)”,

(II) by inserting “of the [Employee Retirement Income Security Act of 1974](#)” after “4212(a)” in subparagraph (C)(i)(II),

(III) by striking “the Secretary of Labor” in subparagraph (C)(iii)(I) and inserting “the Secretary, in consultation with the Secretary of Labor”, and

(IV) by striking “the Secretary of Labor” in the last sentence of subparagraph (C)(iii) and inserting “the Secretary”, and

(v) by striking “an employer’s withdrawal liability” in paragraph (9)(B) and inserting “the allocation of unfunded vested benefits to an employer”.

(E) Section 432(f)(2)(A)(i) of the 1986 Code is amended by striking “section 411(b)(1)(A)” and inserting “section 411(a)(9)”.

(F) Section 432(g) of the 1986 Code is amended by inserting “under subsection (c)” after “funding improvement plan” the first place it appears.

(G) Section 432(i) of the 1986 Code is amended—

(i) by striking “section 412(a)” in paragraph (3) and inserting “section 431(a)”, and

(ii) by striking paragraph (9) and inserting the following new paragraph:

“(9) PLAN SPONSOR.—For purposes of this section, section 431, and section 4971(g)—

“(A) IN GENERAL.—The term ‘plan sponsor’ means, with respect to any multiemployer plan, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan.

“(B) SPECIAL RULE FOR SECTION 404(c) PLANS.—In the case of a plan described in section 404(c) (or a continuation of such plan), such term means the bargaining parties described in paragraph (1).”.

(H) Section 412(b)(3) of the 1986 Code is amended by striking “the plan adopts” and inserting “the plan sponsor adopts”.

(I) Section 4971(g)(4) of the 1986 Code is amended—

(i) in subparagraph (B)(ii), by striking “first day of” and inserting “day following the close of”, and

(ii) by striking clause (ii) of subparagraph (C) and inserting the following new clause:

“(ii) PLAN SPONSOR.—For purposes of clause (i), the term ‘plan sponsor’ has the meaning given such term by section 432(i)(9).”.

(3) AMENDMENTS TO 2006 ACT.—

(A) Section 212(b)(2) of the 2006 Act is amended by striking “Section 4971(c)(2) of such Code” and inserting “Section 4971(e)(2) of such Code”.

(B) Section 212(e)(1) of the 2006 Act is amended by inserting “, except that the amendments made by subsection (b) shall apply to taxable years beginning after 2007, but only with respect to plan years beginning after 2007 which end with or within any such taxable year” before the period at the end.

(C) Section 212(e)(2) of the 2006 Act is amended by striking “section 305(b)(3) of the [Employee Retirement Income Security Act of 1974](#)” and inserting “section 432(b)(3) of the Internal Revenue Code of 1986”.

#### **SEC. 4. AMENDMENTS RELATED TO TITLE III.**

(a) Amendment Related to Section 301.—Clause (ii) of section 101(c)(2)(A) of the [Pension Funding Equity Act of 2004](#), as amended by section 301(c) of the 2006 Act, is amended by striking “2008” and inserting “2009”.

(b) Amendments Related to Section 302.—

(1) AMENDMENT TO ERISA.—Section 205(g)(3)(B)(iii)(II) of ERISA is amended by striking “section 205(g)(3)(B)(iii)(II)” and inserting “section 205(g)(3)(A)(ii)(II)”.

(2) AMENDMENTS TO 1986 CODE.—

(A) Section 417(e)(3)(D)(i) of the 1986 Code is amended by striking “clause (ii)” and inserting “subparagraph (C)”.

(B) Section 415(b)(2)(E)(v) of the 1986 Code is amended to read as follows:

“(v) For purposes of adjusting any benefit or limitation under subparagraph (B), (C), or (D), the mortality table used shall be the applicable mortality table (within the meaning of section 417(e)(3)(B)).”.

#### **SEC. 5. AMENDMENTS RELATED TO TITLE IV.**

(a) Amendment Related to Section 401.—Section 4006(a)(3)(A)(i) of ERISA is amended by striking “1990” and inserting “2005”.

(b) Amendment Related to Section 402.—Section 402(c)(1)(A) of the 2006 Act is amended by striking “commercial airline” and inserting “commercial”.

(c) Amendment Related to Section 408.—Section 4044(e) of ERISA, as added by section 408(b)(2) of the 2006 Act, is redesignated as subsection (f).

(d) Amendments Related to Section 409.—Section 4041(b)(5)(A) of ERISA is amended by striking “subparagraph (B)” and inserting “subparagraphs (B) and (D)”.

(e) Amendments Related to Section 410.—Section 4050(d)(4)(A) of ERISA is amended—

(1) by striking “and” at the end of clause (i), and

(2) by striking clause (ii) and inserting the following new clauses:

“(ii) which is not a plan described in paragraph (2), (3), (4), (6), (7), (8), (9), (10), or (11) of section 4021(b), and

“(iii) which, was a plan described in section 401(a) of the Internal Revenue Code of 1986 which includes a trust exempt from tax under section 501(a) of such Code, and”.

## **SEC. 6. AMENDMENTS RELATED TO TITLE V.**

(a) Amendment Related to Section 501.—Section 101(f)(2)(B)(ii) of ERISA is amended—

(1) by striking “for which the latest annual report filed under section 104(a) was filed” in subclause (I)(aa) and inserting “to which the notice relates”, and

(2) by striking subclause (II) and inserting the following new subclause:

“(II) in the case of a multiemployer plan, a statement, for the plan year to which the notice relates and the preceding 2 plan years, of the value of the plan assets (determined both in the same manner as under section 304 and under the rules of subclause (I)(bb)) and the value of the plan liabilities (determined in the same manner as under section 304 except that the method specified in section 305(i)(8) shall be used),”.

(b) Amendments Related to Section 502.—

(1) Section 101(k)(2) of ERISA is amended by filing at the end the following new flush sentence:

“Subparagraph (C)(i) shall not apply to individually identifiable information with respect to any plan investment manager or adviser, or with respect to any other person (other than an employee of the plan) preparing a financial report required to be included under paragraph (1)(B).”.

(2) Section 4221 of ERISA is amended by striking subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(c) Amendments Related to Section 503.—

(1) AMENDMENTS TO ERISA.—

(A) Section 104(b)(3) of ERISA is amended by—

(i) striking “section 103(f)” and inserting “section 101(f)”, and

(ii) striking “the administrators” and inserting “the administrator”.

(B) Section 104(d)(1)(E)(ii) of ERISA is amended by inserting “funding” after “plan’s”.

(2) AMENDMENTS TO 2006 ACT.—Section 503(e) of the 2006 Act is amended by striking “section 101(f)” and inserting “section 104(d)”.

(d) Amendment Related to Section 505.—Section 4010(d)(2)(B) of ERISA is amended by striking “section 302(d)(2)” and inserting “section 303(d)(2)”.

(e) Amendments Related to Section 506.—

(1) Section 4041(c)(2)(D)(i) of ERISA is amended by striking “subsection (a)(2)” the second place it appears and inserting “subparagraph (A) or the regulations under subsection (a)(2)”.

(2) Section 4042(c)(3)(C)(i) of ERISA is amended—

(A) by striking “and plan sponsor” and inserting “, the plan sponsor, or the corporation”, and

(B) by striking “subparagraph (A)(i)” and inserting “subparagraph (A)”.

(f) Amendments Related to Section 508.—Section 209(a) of ERISA is amended—

(1) in paragraph (1)—

(A) by striking “regulations prescribed by the Secretary” and inserting “such regulations as the Secretary may prescribe”, and

(B) by striking the last sentence and inserting “The report required under this paragraph shall be in the same form, and contain the same information, as periodic benefit statements under section 105(a).”, and

(2) by striking paragraph (2) and inserting the following:

“(2) If more than one employer adopts a plan, each such employer shall furnish to the plan administrator the information necessary for the administrator to maintain the records, and make the reports, required by paragraph (1). Such administrator shall maintain the records, and make the reports, required by paragraph (1).”

(g) Amendment Related to Section 509.—Section 101(i)(8)(B) of ERISA is amended to read as follows:

“(B) ONE-PARTICIPANT RETIREMENT PLAN.—For purposes of subparagraph (A), the term ‘one-participant retirement plan’ means a retirement plan that on the first day of the plan year—

“(i) covered only one individual (or the individual and the individual’s spouse) and the individual (or the individual and the individual’s spouse) owned 100 percent of the plan sponsor (whether or not incorporated), or

“(ii) covered only one or more partners (or partners and their spouses) in the plan sponsor.”.

## **SEC. 7. AMENDMENTS RELATED TO TITLE VI.**

(a) Amendments Related to Section 601.—

(1) AMENDMENTS TO ERISA.—

(A) Section 408(g)(3)(D)(ii) of ERISA is amended by striking “subsection (b)(14)(B)(ii)” and inserting “subsection (b)(14)(A)(ii)”.

(B) Section 408(g)(6)(A)(i) of ERISA is amended by striking “financial adviser” and inserting “fiduciary adviser”.

(C) Section 408(g)(11)(A) of ERISA is amended—

(i) by striking “the participant” each place it appears and inserting “a participant”, and

(ii) by striking “section 408(b)(4)” in clause (ii) and inserting “subsection (b)(4)”.

(2) AMENDMENTS TO 1986 CODE.—

(A) Section 4975(d)(17) of the 1986 Code, in the matter preceding subparagraph (A), is amended by striking “and that permits” and inserting “that permits”.

(B) Section 4975(f)(8) of the 1986 Code is amended—

(i) in subparagraph (A), by striking “subsection (b)(14)” and inserting “subsection (d)(17)”,

(ii) in subparagraph (C)(iv)(II), by striking “subsection (b)(14)(B)(ii)” and inserting “(d)(17)(A)(ii)”,

(iii) in subparagraph (F)(i)(I), by striking “financial adviser” and inserting “fiduciary adviser,”,

(iv) in subparagraph (I), by striking “section 406” and inserting “subsection (c)”, and

(v) in subparagraph (J)(i)—

(I) by striking “the participant” each place it appears and inserting “a participant”,

(II) in the matter preceding subclause (I), by inserting “referred to in subsection (e)(3)(B)” after “investment advice”, and

(III) in subclause (II), by striking “section 408(b)(4)” and inserting “subsection (d)(4)”.

(3) AMENDMENT TO 2006 ACT.—Section 601(b)(4) of the 2006 Act is amended by striking “section 4975(c)(3)(B)” and inserting “section 4975(e)(3)(B)”.

(b) Amendments Related to Section 611.—

(1) AMENDMENT TO ERISA.—Section 408(b)(18)(C) of ERISA is amended by striking “or less”.

(2) AMENDMENTS TO 1986 CODE.—Section 4975(d) of the 1986 Code is amended—

(A) in the matter preceding subparagraph (A) of paragraph (18)—

(i) by striking “party in interest” and inserting “disqualified person”, and

(ii) by striking “subsection (e)(3)(B)” and inserting “subsection (e)(3)”,

(B) in paragraphs (19), (20), and (21), by striking “party in interest” each place it appears and inserting “disqualified person”, and

(C) by striking “or less” in paragraph (21)(C).

(c) Amendments Related to Section 612.—Section 4975(f)(11)(B)(i) of the 1986 Code is amended by—

(1) inserting “of the [Employee Retirement Income Security Act of 1974](#)” after “section 407(d)(1)”, and

(2) inserting “of such Act” after “section 407(d)(2)”.

(d) Amendments Related to Section 621.—Section 404(c)(1) of ERISA is amended—

(1) by inserting “(or any period that would be a blackout period but for the fact that it is a period of 3 consecutive business days or less)” after “blackout period” in subparagraph (A)(ii), and

(2) by inserting the following new sentence at the end of subparagraph (B): “In the case of any period that would be a blackout period but for the fact that it is a period of 3 consecutive business days or less, the preceding sentence shall apply to such period if the person referred to in subparagraph (A)(ii) meets the requirements described in the preceding sentence with respect to such period in the same manner as if it were a blackout period.”

(e) Amendments Related to Section 624.—Section 404(c)(5) of ERISA is amended by striking “participant” each place it appears and inserting “participant or beneficiary”.

## **SEC. 8. AMENDMENTS RELATED TO TITLE VII.**

(1) AMENDMENTS TO ERISA.—

(A) Section 203(f)(1)(B) of ERISA is amended to read as follows:

“(B) the requirements of section 204(c) or 205(g), or the requirements of subsection (e), with respect to accrued benefits derived from employer contributions,”.

(B) Section 204(b)(5) of ERISA is amended—

(i) by striking “clause” in subparagraph (A)(iii) and inserting “subparagraph”, and

(ii) by inserting “otherwise” before “allowable” in subparagraph (C).

(C) Subclause (II) of section 204(b)(5)(B)(i) of ERISA is amended to read as follows:

“(II) PRESERVATION OF CAPITAL.—An applicable defined benefit plan shall be treated as failing to meet the requirements of paragraph (1)(H) unless the plan provides that an interest credit (or equivalent amount) of less than zero shall in no event result in the account balance or

similar amount being less than the aggregate amount of contributions credited to the account.”.

(2) AMENDMENTS TO 1986 CODE.—

(A) Section 411(b)(5) of the 1986 Code is amended—

(i) by striking “clause” in subparagraph (A)(iii) and inserting “subparagraph”, and

(ii) by inserting “otherwise” before “allowable” in subparagraph (C).

(B) Section 411(a)(13)(A) of the 1986 Code is amended—

(i) by striking “paragraph (2)” in clause (i) and inserting “subparagraph (B)”,

(ii) by striking clause (ii) and inserting the following new clause:

“(ii) the requirements of subsection (a)(11) or (c), or the requirements of section 417(e), with respect to accrued benefits derived from employer contributions,”, and

(iii) by striking “paragraph (3)” in the matter following clause (ii) and inserting “subparagraph (C)”.

(C) Subclause (II) of section 411(b)(5)(B)(i) of the 1986 Code is amended to read as follows:

“(II) PRESERVATION OF CAPITAL.—An applicable defined benefit plan shall be treated as failing to meet the requirements of paragraph (1)(H) unless the plan provides that an interest credit (or equivalent amount) of less than zero shall in no event result in the account balance or similar amount being less than the aggregate amount of contributions credited to the account.”.

(3) AMENDMENTS TO 2006 ACT.—

(A) Section 701(d)(2) of the 2006 Act is amended by striking “204(g)” and inserting “205(g)”.

(B) Section 701(e) of the 2006 Act is amended—

(i) by inserting “on or” after “period” in paragraph (3),

(ii) in paragraph (4)—

(I) by inserting “the earlier of” after “before” in the matter preceding subparagraph (A), and

(II) by striking “earlier” and inserting “later” in subparagraph (A),

(iii) by inserting “on or” before “after” each place it appears in paragraph (5), and

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

“(6) SPECIAL RULE FOR VESTING REQUIREMENTS.—The requirements of section 203(f)(2) of the [Employee Retirement Income Security Act of 1974](#) and section 411(a)(13)(B) of the Internal Revenue Code of 1986 (as added by this Act)—

“(A) shall not apply to a participant who does not have an hour of service after the effective date of such requirements (as otherwise determined under this subsection); and

“(B) in the case of a plan other than a plan described in paragraph (3) or (4), shall apply to plan years ending on or after June 29, 2005.”.

**SEC. 9. AMENDMENTS RELATED TO TITLE VIII.**

(a) Amendments Related to Section 801.—

(1) Section 404(o) of the 1986 Code is amended—

(A) by striking “430(g)(2)” in paragraph (2)(A)(ii) and inserting “430(g)(3)”, and

(B) by striking “412(f)(4)” in paragraph (4)(B) and inserting “412(d)(3)”.

(2) Section 404(a)(7)(A) of the 1986 Code is amended—

(A) by striking the next to last sentence, and

(B) by striking “the plan’s funding shortfall determined under section 430” in the last sentence and inserting “the excess (if any) of the plan’s funding target (as defined in section 430(d)(1)) over the value of the plan’s assets (as determined under section 430(g)(3))”.

(b) Amendment Related to Section 803.—Clause (iii) of section 404(a)(7)(C) of the 1986 Code is amended to read as follows:

“(iii) LIMITATION.—In the case of employer contributions to 1 or more defined contribution plans—

“(I) if such contributions do not exceed 6 percent of the compensation otherwise paid or accrued during the taxable year to the beneficiaries under such plans, this paragraph shall not apply to such contributions or to employer contributions to the defined benefit plans to which this paragraph would otherwise apply by reason of contributions to the defined contribution plans, and

“(II) if such contributions exceed 6 percent of such compensation, this paragraph shall be applied by only taking into account such contributions to the extent of such excess.

For purposes of this clause, amounts carried over from preceding taxable years under subparagraph (B) shall be treated as employer contributions to 1 or more defined contributions plans to the extent attributable to employer contributions to such plans in such preceding taxable years.”.

(c) Amendments Related to Section 824.—

(1) Section 408A(c)(3)(B) of the 1986 Code, as in effect after the amendments made by section 824(b)(1) of the 2006 Act, is amended—

(A) by striking the second “an” before “eligible”,

(B) by striking “other than a Roth IRA”, and

(C) by adding at the end the following new flush sentence:

“This subparagraph shall not apply to a qualified rollover contribution from a Roth IRA or to a qualified rollover contribution from a designated Roth account which is a rollover contribution described in section 402A(c)(3)(A).”

(2) Section 408A(d)(3)(B), as in effect after the amendments made by section 824(b)(2)(B) of the 2006 Act, is amended by striking “(other than a Roth IRA)” and by inserting at the end the following new sentence: “This paragraph shall not apply to a distribution which is a qualified rollover contribution from a Roth IRA or a qualified rollover contribution from a designated Roth account which is a rollover contribution described in section 402A(c)(3)(A).”

(d) Amendment to Section 827.—The first sentence of section 72(t)(2)(G)(iv) of the 1986 Code is amended by inserting “on or” before “before”.

(e) Amendments Related to Section 829.—

(1) Section 402(c)(11) of the 1986 Code is amended—

(A) by inserting “described in paragraph (8)(B)(iii)” after “eligible retirement plan” in subparagraph (A), and

(B) by striking “trust” before “designated beneficiary” in subparagraph (B).

(2)(A) Section 402(f)(2)(A) of the 1986 Code is amended by adding at the end the following new sentence: “Such term shall include any distribution which is treated as an eligible rollover distribution by reason of section 403(a)(4)(B), 403(b)(8)(B), or 457(e)(16)(B).”

(B) Clause (i) of section 402(c)(11) of the 1986 Code is amended by striking “for purposes of this subsection”.

(C) The amendments made by this paragraph shall apply with respect to plan years beginning after December 31, 2008.

(f) Amendment Related to Section 832.—Section 415(f) of the 1986 Code is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(g) Amendments Related to Section 833.—

(1) Section 408A(c)(3)(C) of the 1986 Code, as added by section 833(c) of the 2006 Act, is redesignated as subparagraph (E).

(2) In the case of taxable years beginning after December 31, 2009, section 408A(c)(3)(E) of the 1986 Code (as redesignated by paragraph (1))—

(A) is redesignated as subparagraph (D), and

(B) is amended by striking “subparagraph (C)(ii)” and inserting “subparagraph (B)(ii)”.

(h) Amendments Related to Section 841.—

(1) Section 420(c)(1)(A) of the 1986 Code is amended by adding at the end the following new sentence: “In the case of a qualified future transfer or collectively bargained transfer to which subsection (f) applies, any assets so transferred may also be used to pay liabilities described in subsection (f)(2)(C).”

(2) Section 420(f)(2) of the 1986 Code is amended by striking “such” before “the applicable” in subparagraph (D)(i)(I).

(3) Section 4980(c)(2)(B) of the 1986 Code is amended by striking “or” at the end of clause (i), by striking the period at the end of clause (ii) and inserting “, or”, and by adding at the end the following new clause:

“(iii) any transfer described in section 420(f)(2)(B)(ii)(II).”

(i) Amendments Related to Section 845.—

(1) Subsection (l) of section 402 of the 1986 Code is amended—

(A) in paragraph (1)—

(i) by inserting “maintained by the employer described in paragraph (4)(B)” after “an eligible retirement plan”, and

(ii) by striking “of the employee, his spouse, or dependents (as defined in section 152)” ,

(B) in paragraph (4)(D), by—

(i) inserting “(as defined in section 152)” after “dependents”, and

(ii) striking “health insurance plan” and inserting “health plan”, and

(C) in paragraph (5)(A), by striking “health insurance plan” and inserting “health plan”.

(2) Subparagraph (B) of section 402(l)(3) of the 1986 Code is amended by striking “all amounts distributed from all eligible retirement plans were treated as 1 contract for purposes of determining the inclusion of such distribution under section 72” and inserting “all amounts to the credit of the eligible public safety officer in all eligible retirement plans maintained by the employer described in paragraph (4)(B) were distributed during such taxable year and all such plans were treated as 1 contract for purposes of determining under section 72 the aggregate amount which would have been so includible”.

(j) Amendments Related to Section 854.—

(1) Section 3121(b)(5)(E) of the 1986 Code is amended by striking “or special trial judge”.

(2) Section 210(a)(5)(E) of the [Social Security Act](#) is amended by striking “or special trial judge”.

(k) Amendments Related to Section 856.—Section 856 of the 2006 Act, and the amendments made by such section, are hereby repealed, and the Internal Revenue Code of 1986 shall be applied and administered as if such sections and amendments had not been enacted.

(l) Amendment Related to Section 864.—Section 864(a) of the 2006 Act is amended by striking “Reconciliation”.

## **SEC. 10. AMENDMENTS RELATED TO TITLE IX.**

(a) Amendment Related to Section 901.—Section 401(a)(35)(E)(iv) of the 1986 Code is amended to read as follows:

“(iv) ONE-PARTICIPANT RETIREMENT PLAN.—For purposes of clause (iii), the term ‘one-participant retirement plan’ means a retirement plan that on the first day of the plan year—

“(I) covered only one individual (or the individual and the individual’s spouse) and the individual (or the individual and the individual’s spouse) owned 100 percent of the plan sponsor (whether or not incorporated), or

“(II) covered only one or more partners (or partners and their spouses) in the plan sponsor.”.

(b) Amendments Related to Section 902.—

(1) Section 401(k)(13)(D)(i)(I) of the 1986 Code is amended by striking “such compensation as exceeds 1 percent but does not” and inserting “such contributions as exceed 1 percent but do not”.

(2) Sections 401(k)(8)(E) and 411(a)(3)(G) of the 1986 Code are each amended—

(A) by striking “an erroneous automatic contribution” and inserting “a permissible withdrawal”, and

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

(3) Section 402(g)(2)(A)(ii) of the 1986 Code is amended by inserting “through the end of such taxable year” after “such amount”.

(4) Section 414(w)(3) of the 1986 Code is amended—

(A) in subparagraph (B), by inserting “and” after the comma at the end,

(B) by striking subparagraph (C), and

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

(5) Section 414(w)(5) of the 1986 Code is amended by striking “and” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting a comma, and by adding at the end the following:

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

“(E) a simple retirement account (as defined in section 408(p)).”.

(6) Section 414(w)(6) of the 1986 Code is amended by inserting “or for purposes of applying the limitation under section 402(g)(1)” before the period at the end.

(c) Amendments Related to Section 903.—

(1) AMENDMENT OF 1986 CODE.—Section 414(x)(1) of the 1986 Code is amended by adding at the end of paragraph (1) the following new sentence: “In the case of a termination of the defined benefit plan and the applicable defined contribution plan forming part of an eligible combined plan, the plan administrator shall terminate each such plan separately.”

(2) AMENDMENTS OF ERISA.—Section 210(e) of ERISA is amended—

(A) by adding at the end of paragraph (1) the following new sentence: “In the case of a termination of the defined benefit plan and the applicable defined contribution plan forming part of an eligible combined plan, the plan administrator shall terminate each such plan separately.”, and

(B) by striking paragraph (3) and by redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively.

(d) Amendments Related to Section 906.—

(1) Section 906(b)(1)(B)(ii) of the 2006 Act is amended by striking “paragraph (1)” and inserting “paragraph (10)”.

(2) Section 4021(b) of ERISA is amended by inserting “or” at the end of paragraph (12), by striking “; or” at the end of paragraph (13) and inserting a period, and by striking paragraph (14).

## **SEC. 11. AMENDMENTS RELATED TO TITLE X.**

(a) Amendments to Railroad Retirement Act.—

(1) Section 14(b) of the [Railroad Retirement Act of 1974](#) ([45 U.S.C. 231m\(b\)](#)) is amended by adding at the end the following:

“(3)(i) Payments made pursuant to paragraph (2) of this subsection shall not require that the employee be entitled to an annuity under section 2(a)(1) of this Act: Provided, however, That where an employee is not entitled to such an annuity, payments made pursuant to paragraph (2) may not begin before the month in which the following three conditions are satisfied:

“(A) The employee has completed ten years of service in the railroad industry or, five years of service all of which accrues after December 31, 1995.

“(B) The spouse or former spouse attains age 62.

“(C) The employee attains age 62 (or if deceased, would have attained age 62).

“(ii) Payments made pursuant to paragraph (2) of this subsection shall terminate upon the death of the spouse or former spouse, unless the court document provides for termination at an earlier date. Notwithstanding the language in a court order, that portion of payments made pursuant to paragraph (2) which represents payments computed pursuant to section 3(f)(2) of this Act shall not be paid after the death of the employee.

“(iii) If the employee is not entitled to an annuity under section 2(a)(1) of this Act, payments made pursuant to paragraph (2) of this subsection shall be computed as though the employee were entitled to an annuity.”.

(2) Subsection (d) of section 5 of the [Railroad Retirement Act \(45 U.S.C. 231d\)](#) is repealed.

(b) Effective Dates.—

(1) SUBSECTION (a)(1).—The amendment made by subsection (a)(1) shall apply with respect to payments due for months after August 2007. If, prior to the effective date of such amendment, payment pursuant to paragraph (2) of section 14(b) of the [Railroad Retirement Act of 1974 \(45 U.S.C. 231m\(b\)\)](#) was terminated because of the employee’s death, payment to the former spouse may be reinstated for months after August 2007.

(2) SUBSECTION (a)(2).—The amendment made by subsection (a)(2) shall take effect upon the date of the enactment of this Act.

## **SEC. 12. AMENDMENTS RELATED TO TITLE XI.**

(a) Amendment Related to Section 1104.—Section 1104(d)(1) of the 2006 Act is amended by striking “Act” the first place it appears and inserting “section”.

(b) Amendments Related to Section 1105.—Section 3304(a) of the 1986 Code is amended—

(1) in paragraph (15)—

(A) by redesignating clauses (i) and (ii) of subparagraph (A) as subclauses (I) and (II),

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii),

(C) by striking the semicolon at the end of clause (ii) (as so redesignated) and inserting “, and”,

(D) by striking “(15)” and inserting “(15)(A) subject to subparagraph (B),”, and

(E) by adding at the end the following:

“(B) the amount of compensation shall not be reduced on account of any payments of governmental or other pensions, retirement or retired pay, annuity, or other similar payments which are not includible in the gross income of the individual for the taxable year in which it was paid because it was part of a rollover distribution;”, and

(2) by striking the last sentence.

(c) Amendments Related to Section 1106.—Section 3(37)(G) of ERISA is amended by—

(1) striking “paragraph” each place it appears in clauses (ii), (iii), and (v)(I) and inserting “subparagraph”,

(2) striking “subclause (i)(II)” in clause (iii) and inserting “clause (i)(II)”,

(3) striking “subparagraph” in clause (v)(II) and inserting “clause”, and

(4) by striking “section 101(b)(4)” in clause (v)(III) and inserting “section 101(b)(1)”.

### **SEC. 13. AMENDMENT RELATED TO TITLE XII.**

Section 408(d)(8)(D) of the 1986 Code is amended by striking “all amounts distributed from all individual retirement plans were treated as 1 contract under paragraph (2)(A) for purposes of determining the inclusion of such distribution under section 72” and inserting “all amounts in all individual retirement plans of the individual were distributed during such taxable year and all such plans were treated as 1 contract for purposes of determining under section 72 the aggregate amount which would have been so includible”.

### **SEC. 14. OTHER PROVISIONS.**

(a) Amendments Related to Sections 102 and 112.—

(1) AMENDMENT OF ERISA.—The last sentence of section 303(g)(3)(B) of ERISA is amended to read as follows: “Any such averaging shall be adjusted for contributions, distributions, and expected earnings (as determined by the plan’s actuary on the basis of an assumed earnings rate specified by the actuary but not in excess of the third segment rate applicable under subsection (h)(2)(C)(iii)), as specified by the Secretary of the Treasury.”.

(2) AMENDMENT OF 1986 CODE.—The last sentence of section 430(g)(3)(B) of the 1986 Code is amended to read as follows: “Any such averaging shall be adjusted for contributions, distributions, and expected earnings (as determined by the plan’s actuary on the basis of an assumed earnings rate specified by the actuary but not in excess of the third segment rate

applicable under subsection (h)(2)(C)(iii)), as specified by the Secretary.”.

(b) Amendments Related to Section 1004.—

(1) AMENDMENT OF ERISA.—Paragraph (2) of section 205(d) of ERISA is amended by adding at the end the following:

“(C) Notwithstanding subparagraph (B), the applicable percentage is any percentage greater than or equal to 66 2/3 percent but not more than 75 percent if—

“(i) the plan is a defined contribution plan maintained for its employees by an employer which is either exempt from tax under section 501(a) of the Internal Revenue Code of 1986 or aggregated under subsection (b), (c), (m), or (o) of section 414 of such Code with an organization that is exempt from tax under section 501(a) of such Code,

“(ii) the survivor annuity percentage for the plan’s qualified joint and survivor annuity is 50 percent, and

“(iii) each participant may elect (subject to the requirements of subsection (a)) an annuity for the life of the participant with a survivor annuity for the life of the spouse which is equal to 100 percent of the amount of the annuity which is payable during the joint lives of the participant and spouse and which is the actuarial equivalent of a single annuity for the life of the participant.”.

(2) AMENDMENT OF 1986 CODE.—Subsection (g) of section 417 of the 1986 Code is amended by adding at the end the following:

“(3) ALTERNATIVE METHOD OF COMPLIANCE.—Notwithstanding paragraph (2), the applicable percentage is any percentage greater than or equal to 66 2/3 percent but not more than 75 percent if—

“(A) the plan is a defined contribution plan maintained for its employees by an employer which is either exempt from tax under section 501(a) or aggregated under subsection (b), (c), (m), or (o) of section 414 with an organization that is exempt from tax under section 501(a),

“(B) the survivor annuity percentage for the plan’s qualified joint and survivor annuity is 50 percent, and

“(C) each participant may elect (subject to the requirements of subsection (a)) an annuity for the life of the participant with a survivor annuity for the life of the spouse which is equal to 100 percent of the amount of the annuity which is payable during the joint lives of the participant and spouse and which is the actuarial equivalent of a single annuity for the life of the participant.”.

**SEC. 15. EFFECTIVE DATE.**

Except as otherwise provided in this Act, the amendments made by this Act shall take effect as if included in the provisions of the 2006 Act to which the amendments relate.

Passed the Senate December 19, 2007.

Attest:

*Secretary.*

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